

**THE CORNWALL  
PUBLIC INQUIRY**



**L'ENQUÊTE PUBLIQUE  
SUR CORNWALL**

**Public Hearing**

**Audience publique**

**Commissioner**

The Honourable Justice /  
L'honorable juge  
G. Normand Glaude

**Commissaire**

**VOLUME 254**

**Held at :**

Hearings Room  
709 Cotton Mill Street  
Cornwall, Ontario  
K6H 7K7

Tuesday, July 15 2008

**Tenue à:**

Salle des audiences  
709, rue de la Fabrique  
Cornwall, Ontario  
K6H 7K7

Mardi, le 15 juillet 2008

**Appearances/Comparutions**

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Maya Hamou	Commission Counsel
Ms. Karen Jones	Cornwall Community Police
Mr. Peter Manderville	Service and Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. David Rose	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
Mr. Darrell Kloeze	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Ms. Helen Daley	Citizens for Community Renewal
Mr. Dallas Lee	Victims' Group
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene LaRocque
Mr. Giuseppe Cipriano	The Estate of Ken Seguin and Doug Seguin and Father Charles MacDonald
Ms. Marie Henein	Mr. Jacques Leduc
M <sup>e</sup> Danielle Robitaille	
Mr. Steven Skurka	
Mr. Mark Wallace	Ontario Provincial Police Association
Mr. Frank T. Horn	Coalition for Action
Mr. Jacques Leduc	Mr. Jacques Leduc

**Table of Contents / Table des matières**

	<b>Page</b>
List of Exhibits :	iv
<b>JACQUES LEDUC, Resumed/Sous le même serment</b>	1
Examination in-Chief by/Interrogatoire en-chef par Ms. Karen Jones(cont'd/suite)	1

**LIST OF EXHIBITS/LISTE D'EXHIBITS**

<b>NO.</b>	<b>DESCRIPTION</b>	<b>PAGE NO</b>
P-1887	(738050) Statement of Jacques Leduc dated 02 Feb 94	20
P-1888	(738055) Statement of Jacques Leduc - Interviewed 02 Feb 94 signed and dated 07 Sep 94	25
P-1889	(738153) Examination for Discovery of Eugène LaRocque dated 12 Dec 95	27
P-1890	(109640) Letter from A.M. MacDonald to Msgr. Peter Schonenbach dated 21 Dec 92	38
P-1891	(714939) Interview Report of Msgr. MacDougald dated 14 Oct 94	56
P-1892	(110245) Interview Report of Jacques Leduc dated 02 Aug 94	170
P-1893	(122888) Full release and undertaking not to disclose dated 02 Sep 93	185

1 --- Upon commencing at 9:04 a.m. /

2 L'audience débute à 9h04

3 **THE REGISTRAR:** Order; all rise. À l'ordre;  
4 veuillez vous lever.

5 This hearing of the Cornwall Public Inquiry  
6 is now in session. The Honourable Mr. Justice Normand  
7 Glaude, Commissioner, presiding.

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you. Good morning,  
10 all.

11 Maître Leduc, bonjour. You understand  
12 you're still under oath, sir?

13 **MR. LEDUC:** Yes.

14 **THE COMMISSIONER:** Thank you.

15 **JACQUES LEDUC:** Resumed/Sous le même serment

16 --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.

17 **JONES:** (Cont'd/Suite)

18 **THE COMMISSIONER:** Good morning, Ms. Jones.

19 **MS. JONES:** Good morning, Mr. Commissioner.

20 Now, when we left yesterday, we were looking  
21 at the Deslauriers matter and we left it at the spot where  
22 the police were possibly engaging the Bishop in a  
23 discussion and you had given him some advice about what his  
24 obligations would be if he was subpoenaed, and you had  
25 talked to him about that, and you were present I believe

1 during the police interview which only lasted a few  
2 minutes.

3 Is that a fair assessment of where we left  
4 off yesterday?

5 **MR. LEDUC:** I had given some advice to the  
6 Bishop before the police arrived and, as indicated to you  
7 yesterday, I had explained to him his obligations before  
8 the court, his obligations in relation to receiving a  
9 subpoena, having to appear, having to answer questions put  
10 to him and the consequences of not answering those  
11 questions, which include contempt proceedings.

12 Also, that he could decline to make a  
13 statement to the police and his view, as I said to you  
14 yesterday, was that he would not discuss any matters other  
15 than those which were on the public record. And he was  
16 under, I believe, some belief that he had a privilege with  
17 his priests and I explained to him that there was no such  
18 privilege with the exception of course of the sacramental  
19 privilege relating to confession.

20 So that was the advice and the context of my  
21 discussion with him before the police arrived.

22 **MS. JONES:** All right.

23 Now, looking at the criminal proceedings ---

24 **THE COMMISSIONER:** Excuse me. Can we just  
25 stop there for a second?

1                   That's the advice you gave him. Did he ask  
2                   you, "Well, what should I do?" Did you offer any  
3                   suggestions as opposed to advice?

4                   **MR. LEDUC:** No.

5                   **THE COMMISSIONER:** No -- okay. That's what  
6                   you get for asking a number of questions.

7                   Did he ask you for any suggestions on how he  
8                   should act?

9                   **MR. LEDUC:** Mr. Commissioner, I gave advice  
10                  and I would not have proposed anything to him. I would  
11                  have explained to him what his options were and what the  
12                  consequences of those options were, but I was not in a  
13                  position as his counsel to recommend a course of action.

14                  **THE COMMISSIONER:** Okay. How well did you  
15                  know the Bishop at this point?

16                  **MR. LEDUC:** I don't believe I've ever  
17                  actually known the Bishop very well, except as in my role  
18                  as legal counsel. My wife and I, together with other  
19                  members of staff at the Diocesan Centre, were invited to  
20                  his home once at Christmas, and other than that, I had no  
21                  social relationships with the Bishop. I had no real  
22                  conversations or discussions with the Bishop other than on  
23                  a purely professional level.

24                  **THE COMMISSIONER:** And how did he appear to  
25                  you before -- I guess this discussion occurs just before he

1 meets the police?

2 MR. LEDUC: Yes.

3 THE COMMISSIONER: All right. How was he?  
4 Was he composed? Was he nervous? Did he voice any  
5 concerns to you about meeting with the police?

6 MR. LEDUC: My recollection was that he was  
7 very concerned about meeting with the police, that he knew  
8 this was a serious matter.

9 THE COMMISSIONER: M'hm.

10 MR. LEDUC: And that he understood his  
11 obligations.

12 THE COMMISSIONER: His obligations?

13 MR. LEDUC: To respond to the police.

14 THE COMMISSIONER: Okay. Thank you.

15 Ms. Jones?

16 MS. JONES: Thanks very much.

17 We're going to move now to the actual  
18 criminal proceedings against Father Deslauriers because he  
19 was obviously charged with various offences. And  
20 apparently, the preliminary inquiry of Mr. Deslauriers  
21 happened on September 15<sup>th</sup>, 1986.

22 Now, I understand that you were again  
23 retained by the Diocese to follow the progression of the  
24 preliminary inquiry?

25 MR. LEDUC: I was given what I refer to as a



1 watching brief.

2 MS. JONES: And what's a watching brief?

3 MR. LEDUC: My understanding of a watching  
4 brief is that you are there as -- in this instance, as an  
5 observer to monitor the process; monitor in the sense  
6 observe it and to be aware of any matters which may impact  
7 on your client's interest.

8 MS. JONES: And you were then clearly in  
9 attendance from the start, the very start of the  
10 preliminary inquiry, and were going to stay there 'til the  
11 very end?

12 MR. LEDUC: Yes.

13 MS. JONES: And were there any specific  
14 instructions rather than the general one? Was there any  
15 specific, for example, that the Bishop was asking you to  
16 keep an eye on that he was perhaps concerned about?

17 MR. LEDUC: My recollection is that I was  
18 told to be of assistance to the young men who were there,  
19 the victims.

20 MS. JONES: I'm sorry. To who?

21 MR. LEDUC: If I could of any assistance to  
22 them that I would, together with ---

23 MS. JONES: And what -- I'm sorry.

24 MR. LEDUC: Together with assistance to any  
25 -- if there were to be any priests who were going to be

1 witnesses that I was to be there to provide any legal  
2 assistance I could.

3 **MS. JONES:** What do you mean by assistance  
4 to the victims?

5 **MR. LEDUC:** Well, if they had any questions  
6 that they -- you know, they could ask me.

7 **MS. JONES:** Questions about criminal law?

8 **MR. LEDUC:** Well, I'm not sure what their  
9 questions would be. Those were my instructions.

10 **MS. JONES:** And were you anticipating any  
11 sort of questions that they may have?

12 **MR. LEDUC:** No.

13 **MS. JONES:** Or questions that the priests  
14 may have?

15 **MR. LEDUC:** No.

16 **MS. JONES:** Did you ask any other criminal  
17 lawyer for some assistance as to typical questions a  
18 complainant in criminal trial may have?

19 **MR. LEDUC:** No.

20 **MS. JONES:** Could you please refer to  
21 Exhibit 71B? It's a transcript and I'm specifically  
22 looking at Bates page 2027. The Document Number is 114312.

23 **MR. LEDUC:** I'm sorry. Did you say 71?

24 **MS. JONES:** Seventy-one B (71B).

25 **THE COMMISSIONER:** Madam Clerk, Exhibit 71

1 does not exist.

2 MR. LEDUC: No.

3 THE COMMISSIONER: So we should look into  
4 that, number one.

5 Pardon? Yeah, we can put it on the screen  
6 for now.

7 MS. JONES: Bates page 2027; 1072027.

8 THE COMMISSIONER: Is this what you wanted?

9 MS. JONES: Yes, please, and the paragraph  
10 after the recess.

11 THE COMMISSIONER: Yes.

12 MS. JONES: Now, Mr. Leduc, I'm wondering if  
13 you could please read it? It's actually the words of  
14 Maître Charlebois who is the defence lawyer at that time  
15 for Father Deslauriers and he's making a submission to the  
16 court. And I'm wondering if you could please begin in that  
17 first paragraph? It starts with the words "Avant qu'on  
18 commence". If you could just read from there to the end of  
19 that paragraph?

20 THE COMMISSIONER: Avant qu'on commence,  
21 then maybe you can situate us as to what we're reading.

22 MS. JONES: Certainly. In this particular  
23 instance, it would appear that the complainant is ---

24 THE COMMISSIONER: We're in the preliminary  
25 inquiry; is that what you're telling me?

1                   **MS. JONES:** Yes. I'm sorry; yes, we're in  
2                   the preliminary inquiry. This is a transcript from the  
3                   preliminary inquiry and the date of the transcript is, I  
4                   believe, the 16<sup>th</sup> of September 1986, which is stated on the  
5                   face of the document and it would appear that the  
6                   complainant is -- one of the complainants is testifying and  
7                   Mr. Brisson and -- basically, before he starts testifying,  
8                   Mr. Charlebois is standing up and addressing the Court  
9                   about a specific issue that may arise during the testimony  
10                  of Mr. Brisson. So that's essentially what's happening at  
11                  this particular point. So he hasn't actually testified  
12                  yet. These are Mr. Charlebois' opening words, shall we  
13                  say.

14                   So if you wouldn't mind reading into the  
15                  record the sentence, let's say starting with the word and  
16                  then the -- just at the end of that paragraph, please.

17                  **MR. LEDUC:** "Avant qu'on commence,  
18                                j'aimerais que ça soit bien clair entre  
19                                vous et moi que toutes révélations que  
20                                vous auriez faites au Père Gilles dans  
21                                le cadre du secret de la confession,  
22                                vous n'êtes pas obligé de nous le  
23                                dévoiler en cour à moins que vous ne le  
24                                décidiez de le faire, bien entendu."

25                  **MS. JONES:** So essentially Mr. Charlebois is

1       advising the complainant before he starts to testify that  
2       anything that he had divulged during a confession was still  
3       sacrosanct, shall we say, that he didn't actually have to  
4       talk about that if he didn't wish to. Is that a fair  
5       translation of that?

6                   **MR. LEDUC:** He's being told he's not  
7       obligated to disclose it to the Court.

8                   **MS. JONES:** Right.

9                   Now, there were a couple of instances where  
10       you actually did speak to a couple of the people that were  
11       considered Crown witnesses, and one of the people you spoke  
12       to was actually Mr. Brisson, and I'm wondering if you could  
13       describe why you would have spoken to him at the trial --  
14       I'm sorry, during the preliminary?

15                   **MR. LEDUC:** Are you referring to the -- my  
16       providing Mr. Brisson with information pertaining to some  
17       of the issues that were raised in cross-examination?

18                   **MS. JONES:** I'm talking when you were  
19       speaking ---

20                   **MR. LEDUC:** With respect ---

21                   **MS. JONES:** Yes, that's correct.

22                   **MR. LEDUC:** Yes. During the cross-  
23       examination by Mr. Charlebois of Mr. Brisson, it became  
24       apparent to me that the information that was included in  
25       the questions put to Mr. Brisson may have been the subject

1 matter of a confession.

2 I then spoke to the Crown, Mr. Mel Masse,  
3 asked him if I could speak with Mr. Brisson. We had a very  
4 brief conversation and what I said to Mr. Brisson was, "If  
5 you believe that there is a subject matter that is being  
6 put to you in cross-examination that is the result of some  
7 disclosure or subject matter that was the subject of a  
8 confession, you are free to advise the Court." That was my  
9 discussion with Mr. Brisson.

10 **MS. JONES:** So you ---

11 **MR. LEDUC:** But in French.

12 **MS. JONES:** Okay. But you asked permission  
13 to talk to Mr. Brisson during his time while he was a  
14 witness on the stand?

15 **MR. LEDUC:** Yes. I -- well, I asked to  
16 speak to the Crown during this time who told me I could  
17 speak with Mr. Brisson.

18 **MS. JONES:** And do you recall that the  
19 defence lawyer, once he found out about this, was not very  
20 happy about that, or at least he brought it up as an issue?

21 **MR. LEDUC:** I remember reading the  
22 transcript recently.

23 **MS. JONES:** Do you remember at the time that  
24 there was a bit of an issue surrounding that?

25 **MR. LEDUC:** Yes.

1                   **MS. JONES:** I just would refer you, please,  
2                   to Document 114313. I have it as Exhibit 71C, which is the  
3                   transcript of the preliminary on the next day.

4                   **MR. LEDUC:** We have no 71.

5                   **THE COMMISSIONER:** It's okay. We'll get it  
6                   on the ---

7                   **MS. JONES:** So if we had Document 114313 and  
8                   Bates page 1072059. And just a brief reference, I would  
9                   say, just to refresh your memory, this is the cross-  
10                  examination by Maître Charlebois and you can see the second  
11                  question posed to Mr. Brisson is actually about his  
12                  conversation he just had with you. So that confirms that  
13                  sometime while he was on the stand he had actually talked  
14                  to you?

15                  **MR. LEDUC:** Correct.

16                  **MS. JONES:** Now, do you understand that  
17                  having conversations with the witness while they're under -  
18                  - do you understand that when you have conversations with a  
19                  witness while they're in the stand answering questions such  
20                  as yourself even at this Inquiry, that there are certain  
21                  rules and procedures that have to be followed in order to  
22                  be able to speak to that particular witness during  
23                  proceedings?

24                  **MR. LEDUC:** Yes.

25                  **MR. SKURKA:** If my friend intends to pursue

1           this point, I would object. The evidence already for Mr.  
2           Leduc is that he received permission of the Crown.

3                           **THE COMMISSIONER:** M'hm.

4                           **MR. SKURKA:** And I defy my friend to show me  
5           any rule that suggests with the permission of the Crown  
6           that Mr. Leduc was not entitled to speak to that witness  
7           during cross-examination.

8                           **THE COMMISSIONER:** That's fine, but she can  
9           -- what's wrong with asking him that question?

10                          **MR. SKURKA:** Because the premise is that  
11           there are rules that he violated or breached. Otherwise,  
12           there would be no purpose to the question.

13                          **THE COMMISSIONER:** No, I don't agree. I  
14           don't agree at all. I agree with the fact that -- I agree  
15           with the fact that at some point we're going to have to  
16           determine that, but for now I'll grant counsel some leeway.

17                          **MS. JONES:** So are you aware then that there  
18           are certain procedures or rules that must be followed if  
19           you're going to speak to a witness while that witness is in  
20           the stand?

21                          **MR. LEDUC:** Yes.

22                          **MS. JONES:** And obviously one of those  
23           procedures is to ask the Crown Attorney for permission?

24                          **MR. LEDUC:** Yes.

25                          **MS. JONES:** Which you did.



1                   But do you also understand that any time  
2                   that there is a conversation with a witness during their  
3                   testimony, there's a small amount, to some degree, of risk  
4                   attached that something could go wrong with the  
5                   conversation or the witness could misunderstand what's  
6                   being said during the testimony, something of that nature?  
7                   There is some degree of risk that could be attached to  
8                   that?

9                   **MR. LEDUC:** It would depend on the  
10                  conversation and the subject matter.

11                  **MS. JONES:** Did you speak to Mr. Brisson  
12                  alone or with the Crown Attorney present?

13                  **MR. LEDUC:** Alone in the room. If I  
14                  recollect, we were in the room.

15                  **MS. JONES:** In ---

16                  **MR. LEDUC:** In the hearing room. I -- no, I  
17                  think it was in the hearing room.

18                  **MS. JONES:** Would you agree with me if  
19                  you're stating that you were reminding him that things he  
20                  said in confession were -- could be privileged, that's  
21                  exactly what Mr. Charlebois had stated when he first opened  
22                  up his questions to him, that you were just restating what  
23                  Mr. Charlebois himself had said to him?

24                  **MR. LEDUC:** That is not what I said. I  
25                  reminded Mr. Brisson that if there was any such subject

1 matter, that he was free to indicate so to the Court. That  
2 was my comment to him.

3 MS. JONES: Did you make notes of this  
4 conversation?

5 MR. LEDUC: No.

6 MS. JONES: Did you make any notes of  
7 anything that transpired during the course of the  
8 preliminary?

9 MR. LEDUC: I don't recall. No, I don't  
10 recall.

11 MS. JONES: Is it possible you made notes?

12 MR. LEDUC: Yes, it's possible.

13 MS. JONES: And what would you have done  
14 with those notes if you had made them?

15 MR. LEDUC: Well, I don't recall making  
16 them, so I ---

17 MS. JONES: So you didn't make a file of any  
18 sort as to this watching brief?

19 MR. LEDUC: There could have been a file,  
20 because I know I billed it, but this was '86.

21 MS. JONES: Lawyers didn't keep files in  
22 1986?

23 MR. LEDUC: Well, I'm not -- I don't know  
24 what lawyers did. I can tell you that my recollection is  
25 that there may have been a file because I did bill it. So

1           there had to be a record certainly of my account, but other  
2           than that ---

3                       **MS. JONES:** Well, if there was a file you  
4           opened because you know that you billed the account, are  
5           you aware of file retention policies as per the Law Society  
6           of Upper Canada over the years?

7                       **MR. LEDUC:** Well, without ---

8                       **MS. JONES:** Just a moment, please, sir.

9                       **MR. LEDUC:** Well, with all due respect ---

10                      **MS. JONES:** Sir, if I could just finish my  
11           question?

12                      **MR. LEDUC:** Sorry.

13                      **MS. JONES:** And how many years a lawyer is  
14           expected to retain those files after the file is actually  
15           closed?

16                      **MR. LEDUC:** My experience, as I speak today,  
17           is that in 1994 and in 2001, the Law Society still had not  
18           given clear and unambiguous directions in relation to file  
19           retention.

20                      **MS. JONES:** So what is your understanding of  
21           what a lawyer was supposed to do with regards to how long  
22           they were to keep a file?

23                      **MR. LEDUC:** My understanding in 2000 -- in  
24           1994 and 2001 is that there were suggestions and  
25           recommendations made by the Law Society, but there was no

1 direction that had to be adhered to.

2 MS. JONES: Was the suggestion to keep files  
3 retained approximately 10 years?

4 MR. LEDUC: Yes. Yes.

5 MS. JONES: Would you agree that would be a  
6 prudent and reasonable method of adopting with regards to  
7 file retention?

8 MR. LEDUC: Not in all instances, no.

9 MS. JONES: Would this be one of those  
10 instances where it's not appropriate to keep it 10 years?

11 MR. LEDUC: I don't know if I kept it 10  
12 years. If it existed, I probably did, and it would have  
13 been destroyed I think probably in ninety -- no, it  
14 couldn't have been '94 -- 2000, probably 2001, but I'm  
15 guessing because I did do a, as we call, a clean-up of  
16 quite a few files.

17 MS. JONES: In 2001?

18 MR. LEDUC: Yes.

19 MS. JONES: So if you had ---

20 MR. LEDUC: I'm sorry. Yes.

21 MS. JONES: So if you had opened up a file  
22 then on this particular matter involving Father Deslauriers  
23 in 1986, your evidence is that you likely would have  
24 retained that until 2001?

25 MR. LEDUC: Oh, I'm not prepared to say that

1           because I don't remember if I opened the file or not. I  
2           may just have issued an account in the file and there may  
3           have not been anything in the file, and I -- no, I don't  
4           recall opening a file or making notes at the preliminary  
5           inquiry.

6                       **MS. JONES:** And do you recall having a  
7           conversation with the Bishop after the proceedings, after  
8           the preliminary and telling him what had happened during  
9           the proceeding?

10                      **MR. LEDUC:** Yes.

11                      **MS. JONES:** And what was the substance of  
12           that conversation?

13                      **MR. LEDUC:** I remember alerting him to the  
14           issue of the possible disclosure of information received  
15           during confession.

16                      **MS. JONES:** The issue that we just talked  
17           about a moment ago?

18                      **MR. LEDUC:** That's correct.

19                      **MS. JONES:** And was that your only concern?

20                      **MR. LEDUC:** I'm sorry?

21                      **MS. JONES:** Was that your only concern?

22                      **MR. LEDUC:** It's the only one that I recall.

23                      **MS. JONES:** Just by way of closure on this  
24           issue, Father Deslauriers was charged on July 2<sup>nd</sup>, 1986 with  
25           16 counts of sexual assault relating to nine victims and

1 the preliminary inquiry that you attended would have been  
2 at the Cornwall community -- I'm sorry, Cornwall Civic  
3 Complex Arena?

4 **MR. LEDUC:** Yes.

5 **MS. JONES:** Is that correct?

6 And it appears he entered a guilty plea to  
7 four counts following the prelim. and received a suspended  
8 sentence and two years probation for the crimes, and the  
9 other charges were withdrawn by the Crown. The Crown  
10 appealed and the appeal was denied.

11 It also appears too that on September 15<sup>th</sup>,  
12 1986, Bishop Larocque attended Father Deslauriers'  
13 preliminary inquiry as required by subpoena so ---

14 **MR. SHERRIFF-SCOTT:** Excuse me,  
15 Commissioner. There was no appeal on the matter. I think  
16 my friend is incorrect on the record. I don't believe  
17 there was an appeal.

18 **THE COMMISSIONER:** Okay.

19 **MS. JONES:** To be frank, I have that  
20 information here from somewhere, but I can't actually put  
21 my hands on it.

22 **THE COMMISSIONER:** Well we'll defer that  
23 one.

24 **MS. JONES:** Thank you.

25 But apparently Bishop Larocque attended the

1 preliminary by subpoena. Do you recall that?

2 MR. LEDUC: Yes.

3 MS. JONES: And were you there to assist him  
4 on that day as well?

5 MR. LEDUC: Yes.

6 MS. JONES: But he was never called to the  
7 stand, I understand?

8 MR. LEDUC: No.

9 MS. JONES: Did you ever discuss the case  
10 with Mr. Charlebois, Father Deslauriers' lawyer, in any  
11 extent?

12 MR. LEDUC: No.

13 MS. JONES: Did the Bishop ever talk with  
14 Mr. Charlebois did you see?

15 MR. LEDUC: I don't know.

16 MS. JONES: Now, we are going to leave the  
17 Deslauriers matter and we are going to move into the  
18 involvement in the David Silmsen matter.

19 And to start off the questions, I am going  
20 to be asking you a lot of questions about statements that  
21 you had provided to the lawyers at Scott and Ayles, a law  
22 firm in Ottawa, and I'll just get those statements  
23 organized here.

24 Essentially, just to summarise, it appears  
25 that you have or we have three versions of the statement

1 that was provided to the counsel, and the timing of these  
2 statements is the summer and fall, say, of 1994 because  
3 there's drafts that are prepared. The final version is  
4 actually dated September 7<sup>th</sup>, 1994. So that's the timeframe  
5 that we're looking at for this statement.

6 So the first version of this I wish to draw  
7 your attention to is Document 738050.

8 **THE COMMISSIONER:** Thank you. Exhibit  
9 Number 1887 is a document with a fax coversheet, 10 pages,  
10 to Scott and Aylene from Jacques Leduc on -- do we have a  
11 date some place?

12 **MS. JONES:** Yes, the date of the fax is  
13 February 22<sup>nd</sup>, 1994, but if we turn to the second page, the  
14 interview of Mr. Leduc, we'll establish, is actually  
15 February 2<sup>nd</sup>, 1994. So that's a handy date, February 2<sup>nd</sup>,  
16 1994.

17 **THE COMMISSIONER:** Thank you.

18 **--- EXHIBIT NO./PIÈCE No P-1887:**

19 (738050) Statement of Jacques Leduc dated 02  
20 Feb 94

21 **MS. JONES:** So just to get this clear and by  
22 way of background, you had met with Peter Annis of the firm  
23 Scott and Aylene; is that correct?

24 **MR. LEDUC:** Yes.

25 **MS. JONES:** In preparation of a statement?



1                   **MR. LEDUC:** He was taking a statement, yes.

2                   **MS. JONES:** And this statement was being  
3 taken because of civil law proceedings, and it was done in  
4 the context of preparing a statement for civil litigation?

5                   **MR. LEDUC:** I'm not sure if the -- you have  
6 to tell me if the civil litigation had commenced, but I  
7 thought maybe this was because they had assumed that  
8 particular file and they wanted to have a chronology of  
9 events, but I could be mistaken. Was the civil action  
10 commenced in February of '94?

11                   **MS. JONES:** I believe that it was. I don't  
12 have an exact date, but let's put it this way; was it  
13 prepared ---

14                   **MR. LEDUC:** No.

15                   **MS. JONES:** --- either because of civil  
16 litigation or in the ---

17                   **THE COMMISSIONER:** No, no. No, no. I don't  
18 think it was prepared by then.

19                   **MS. JONES:** No?

20                   **THE COMMISSIONER:** And can anyone assist?  
21 Mr. Sherriff-Scott, that wasn't on the table yet?

22                   **MR. SHERRIFF-SCOTT:** I think they actually  
23 (off mic) ---

24                   **THE COMMISSIONER:** Pardon me?

25                   No, this is right at the -- no. You mean

1 the Silmsler -- a Silmsler action?

2 **MR. SHERRIFF-SCOTT:** The action had been --  
3 let's see if I can -- the action had been threatened by Mr.  
4 Geoffrey in correspondence, but it hadn't been commenced at  
5 that point. And your counsel has given notice of the  
6 pleadings which are in her document references later, and  
7 the pleadings are there. So the exact date can be  
8 obtained, but I don't think it had been commenced by this  
9 point.

10 **THE COMMISSIONER:** As of the -- what date  
11 are we talking about?

12 **MR. SHERRIFF-SCOTT:** February 2 of 1994.  
13 This is only several weeks after the press  
14 conferences ---

15 **THE COMMISSIONER:** Yes, yes.

16 **MR. SHERRIFF-SCOTT:** --- but the file had  
17 shifted to the other firm.

18 **THE COMMISSIONER:** Okay. Thank you. So I  
19 don't think so.

20 **MS. JONES:** I have the Statement of Claim  
21 here and I'm looking at the document showing the trial  
22 brief. I do have it here as an exhibit. It would appear  
23 the Statement of Claim was filed April 6<sup>th</sup>, 1995. So this  
24 is before -- just as Mr. Sherriff-Scott stated, before the  
25 actual claim was filed but possibly in contemplation of

1 litigation.

2 So essentially, you had met with the lawyer  
3 though to prepare a formal statement in the event of civil  
4 litigation.

5 **MR. LEDUC:** I don't think so. I think the  
6 statement was prepared to provide them with the anecdotal  
7 report of my participation in the Silmsler matter.

8 **MS. JONES:** And you met with Mr. Annis at  
9 the law firm and gave an interview?

10 **MR. LEDUC:** He came to Cornwall, yes.

11 **MS. JONES:** He came to Cornwall?

12 **MR. LEDUC:** Yes.

13 **MS. JONES:** And how long was the interview;  
14 do you recall?

15 **MR. LEDUC:** No. The actual length of the  
16 interview? I'd be just guessing, but it had to be -- I'm  
17 just guessing.

18 **MS. JONES:** And presumably Mr. Annis took  
19 notes of the interview ---

20 **MR. LEDUC:** Yes.

21 **MS. JONES:** --- as he was progressing versus  
22 a tape recorder?

23 **MR. LEDUC:** Yes.

24 **MS. JONES:** And he essentially was given the  
25 task of preparing a chronology then or -- it's called here

1 "A statement of Jacques Leduc", but he was asked to prepare  
2 a statement outlining the chronology of events according to  
3 yourself?

4 **MR. LEDUC:** I don't know what his  
5 instructions were but that's -- it's clearly as a result of  
6 that.

7 **MS. JONES:** And when this version that I  
8 refer to here that's now Exhibit 1886 was ---

9 **MR. LEDUC:** I have 1887.

10 **MS. JONES:** I'm sorry; 1887.

11 When this version was prepared, presumably  
12 then it was faxed to you it would appear on February 22<sup>nd</sup>,  
13 1994, presumably for your comments and corrections and  
14 editing?

15 **MR. LEDUC:** Well, I'm looking at the  
16 document in front of me and it's my fax cover sheet to  
17 Scott & Aylen.

18 **MS. JONES:** So -- but the typed document  
19 presumably had been sent to you from Scott & Aylen. You  
20 had made changes and now this is what you were sending back  
21 to them?

22 **MR. LEDUC:** Yes.

23 **MS. JONES:** Okay. So the small markings on  
24 here, this is a fax and a photocopy of a fax, but is that  
25 your handwriting?

1                   **MR. LEDUC:** Yes.

2                   **MS. JONES:** And these are your changes,  
3 additions or deletions as you saw fit on that document?

4                   **MR. LEDUC:** Yes.

5                   **MS. JONES:** Now, I just want to refer you to  
6 Document 738055.

7                   **THE COMMISSIONER:** Thank you.

8                   Exhibit Number 1888 is a statement of  
9 Jacques Leduc which is -- I'll put just Document Number  
10 738055.

11                  **--- EXHIBIT NO./PIÈCE NO. P-1888:**

12                   (738055) Statement of Jacques Leduc -  
13 Interviewed February 2, 1994; signed and  
14 dated September 7, 1994

15                  **MS. JONES:** I can give, Mr. Commissioner, a  
16 date actually on this. On the very last page of the  
17 document, which is Bates page 2752 ---

18                  **THE COMMISSIONER:** Yes, you're right.  
19 September 7<sup>th</sup>, 1994.

20                  **MS. JONES:** Thank you.

21                   So can you confirm that the first one in  
22 time is Exhibit 1887 and the changes, additions or  
23 deletions that you made on Exhibit 1887 seem to have been  
24 incorporated in 1888?

25                  **MR. LEDUC:** I can -- without checking

1           though, I can only assume if -- sure. I mean, this is the  
2           ultimate draft.

3                   **MS. JONES:** Did you read these documents  
4           before coming here today?

5                   **MR. LEDUC:** Oh, yes, yes, yes. Yes, yes.

6                   **MS. JONES:** So are you able to confirm that  
7           the changes have been made?

8                   **MR. LEDUC:** Well, if you're asking me --  
9           sorry. If you're asking me today to compare this document  
10          with this document, to tell you today those changes have  
11          been made, I'd have to look at it. But my recollection is  
12          that the final document incorporated my changes and  
13          amendments and other modifications which were the result of  
14          conversations with Peter Annis.

15                   **MS. JONES:** Did you make a comparison of  
16          Exhibits 1887 and 1888 before coming here today?

17                   **MR. LEDUC:** No.

18                   **MS. JONES:** Now, if we could please go to  
19          the last version which is Document 738153? It's a  
20          transcript; 738153. I have 738153. I can refer you to a  
21          Bates page if that helps. That's it.

22                   **THE COMMISSIONER:** Thank you.

23                           Exhibit 1889 is a copy of a transcript of  
24          D.S. and Father Charles et al., and Jacques Leduc and  
25          Malcolm MacDonald and Sean Adams, Court file number

1 90597/95.

2 --- EXHIBIT NO./PIÈCE NO. P-1889:

3 (738153) Examination for Discovery of Eugène  
4 LaRocque dated December 12, 1995

5 **THE COMMISSIONER:** Actually, this is an  
6 examination for discovery, I should point out, on December  
7 12<sup>th</sup>, 1995. Okay.

8 **MS. JONES:** And contained within this  
9 document is another version of your particular statement.

10 Have you read over this particular document  
11 again to confirm the portion that applies to your statement  
12 because they read it in the record -- is an accurate  
13 reflection of the typed version of ---

14 **MR. LEDUC:** No.

15 **MS. JONES:** --- 1888?

16 **MR. LEDUC:** No.

17 **MS. JONES:** You haven't.

18 We may not have to go to that, so I'll just  
19 leave that anyways and enter it as an exhibit because I'm  
20 going to deal with the other two chiefly in any event.

21 Now, if we look at Document 1887, please,  
22 the entire proceedings with regards to David Silmsler, and  
23 your involvement appears to start, according to your  
24 chronology, in December 1992. I'm looking at the second  
25 page, Bates page 2725.

1                   **MR. LEDUC:** Yes.

2                   **MS. JONES:** Now, I wonder if you can  
3 describe how it was that you first became aware of the  
4 situation involving David Silmser and Father Charlie  
5 MacDonald?

6                   **MR. SHERRIFF-SCOTT:** My friend has turned up  
7 the first draft of the document. I don't know whether her  
8 intention is to do some comparative analysis, but if that  
9 is not the case and she's using this to assist the witness,  
10 ought he not to be referred to his final version as opposed  
11 to an interim draft?

12                   **THE COMMISSIONER:** It depends where we're  
13 going. Thank you. Yeah, you're right.

14                   **MS. JONES:** No, I will be looking at changes  
15 and additions. There's a reason why I'm referring to this  
16 version.

17                   **THE COMMISSIONER:** Okay.

18                   **MS. JONES:** So it would appear December of  
19 1992 was your first contact. Could you please describe for  
20 the record how you first became aware of the David Silmser  
21 matter involving Father Charlie MacDonald?

22                   **MR. LEDUC:** As I indicated in the statement  
23 that I was advised by Monsignor Guindon.

24                   **MS. JONES:** If you could speak up a bit,  
25 please.



1                   **MR. LEDUC:** I'm sorry. As indicated in the  
2 statement, I was advised by Monsignor Guindon.

3                   **MS. JONES:** And, again, that was in December  
4 1992?

5                   **MR. LEDUC:** Yes.

6                   **MS. JONES:** I notice that -- as I say, there  
7 are going to be a few changes. I'm going to highlight a  
8 couple of additions and changes that you've made here, this  
9 is why I have this version.

10                   The first one that I wanted to draw to your  
11 attention is on that page where you've added right after  
12 you're alerted to the fact that there may be a concern  
13 about Father Charles MacDonald.

14                   You stated:

15                                "I advised Gordon Bryan to advise the  
16                                diocesan insurers..."

17                   -- and I did practice the word last night.

18                   Do you see where you've added that in there,  
19 sir?

20                   **MR. LEDUC:** Yes.

21                   **MS. JONES:** So when you first received this  
22 -- when you were first alerted to this complaint, it would  
23 appear that one of your first instinctive reactions would  
24 be to involve the diocesan insurers.

25                   And what would be the reason for that?

1                   **MR. LEDUC:** To put them on notice.

2                   **MS. JONES:** On notice of?

3                   **MR. LEDUC:** Of a potential claim.

4                   **MS. JONES:** So you recognized that there  
5 could be a potential claim as against the Diocese?

6                   **MR. LEDUC:** Yes.

7                   **MS. JONES:** With regards to these  
8 allegations?

9                   **MR. LEDUC:** Yes.

10                   **MS. JONES:** And the only other thing I  
11 wanted to draw your attention to is that you were told by  
12 Monsignor Guindon but there's also a reference to a letter  
13 that Monsignor Schonenbach had written?

14                   **MR. LEDUC:** Yes.

15                   **MS. JONES:** And the date of that letter was  
16 December 11<sup>th</sup>, 1992 in which David Silmser had outlined his  
17 allegations to Monsignor Schonenbach. Do you see that?

18                   **MR. LEDUC:** Yes.

19                   **MS. JONES:** There's also a comment about the  
20 fact that in that letter, Monsignor Schonenbach indicated  
21 the complainant seemed like a credible person. Do you see  
22 that as well?

23                   **MR. LEDUC:** Yes.

24                   **MS. JONES:** Okay. I'm going to be referring  
25 to that letter later on but I just wanted to get this in

1 context. So that was essentially the information that you  
2 had at that time.

3 The next step that it appears that you did  
4 was that you advised the Bishop to follow protocol?

5 **MR. LEDUC:** Yes.

6 **MS. JONES:** And what exactly was the  
7 protocol then at that time when you are confronted with a  
8 situation of sexual -- possible sexual misconduct by a  
9 priest?

10 **MR. LEDUC:** If, when I reviewed the  
11 statement, I referred to a protocol, I can only tell you  
12 today that a protocol would have existed at that time;  
13 which one, I don't know, but I certainly did advise the  
14 Bishop, at that time, that the -- he had to follow the  
15 protocol.

16 **MS. JONES:** Did you actually state what the  
17 protocol would have been at that time?

18 **MR. LEDUC:** By protocol I mean I'm referring  
19 to an actual document.

20 **MS. JONES:** Did you refer him to an actual  
21 document?

22 **MR. LEDUC:** I don't recall referring him to  
23 any document except that when we spoke about a protocol, we  
24 all understood that it meant "the protocol" to be followed,  
25 which was a written document to the best of my

1 recollection.

2 **MS. JONES:** What I'm asking you is rather  
3 than just saying, Bishop, you better follow the protocol,  
4 did you actually explain what the protocol was at that  
5 time?

6 **MR. LEDUC:** My recollection was that he was  
7 maybe not the author of the protocol, but he had -- he had  
8 authorized it. It was a Diocesan protocol if I recollect  
9 so he knew what I was talking about. When we talked about  
10 the protocol, there was, basically, only one protocol  
11 dealing with such matters.

12 **MS. JONES:** Did you -- do you recall being  
13 told the identity of the complainant at this time in  
14 December 1992?

15 **(SHORT PAUSE/COURTE PAUSE)**

16 **MR. LEDUC:** I -- I can't answer that because  
17 I don't know. I don't remember.

18 **MS. JONES:** If I could refer you, please, to  
19 Exhibit 311. And I'm going to go back to this, Madam  
20 Clerk, if it could be kept on the screen, please.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MS. JONES:** Now, Exhibit 311 is a letter  
23 dated December 11<sup>th</sup>, 1992. It is a letter to Monsignor  
24 McDougald and it's authored by Monsignor Schonenbach and  
25 this is the letter I just referred to ---

1                   **MR. LEDUC:** M'hm.

2                   **MS. JONES:** --- a moment ago that you  
3 referred to as well, and in this -- the Document Number is  
4 110167, my apologies. And in this letter, if you just look  
5 at the opening paragraph, it does mention David Silmser's  
6 name i.e., the complainant. Did you have access to this  
7 letter at the time?

8                   **MR. LEDUC:** I don't recall.

9                   **MS. JONES:** You don't recall?

10                  **MR. LEDUC:** No.

11                  **MS. JONES:** When you were first alerted to a  
12 priest and possible sexual allegations and you were alerted  
13 to the fact that there was a letter in existence and the  
14 Bishop said, "I got a letter," surely that was the reason  
15 why you were brought into that; that this letter had sort  
16 of alerted everybody that there was an issue?

17                  **MR. LEDUC:** Other than what I've said in the  
18 statement, I don't recall having any specific discussions  
19 with the Bishop at this point in time, other than to --  
20 specific in the sense of what you're asking me.

21                  **MS. JONES:** Well, what I'm saying here is  
22 that you were told that there was an allegation against a  
23 priest. You were told that the Bishop received a letter  
24 dated December 11<sup>th</sup> from Monsignor Schonenbach outlining  
25 what the complainant has said about Father Charlie

1 MacDonalld, and I find it curious that you would not have,  
2 perhaps, seen the letter. Do you have any recollection at  
3 that time?

4 **MR. SKURKA:** Mr. Commissioner, I'll just  
5 make the objection once. I would take issue with my friend  
6 interjecting her own opinion indicating that she finds it  
7 "curious." Those kinds of comments have no place in this  
8 hearing.

9 **THE COMMISSIONER:** Well, yes, I agree in the  
10 sense that you're putting a long paragraph to him and then  
11 you're putting in your interpretation so either we shorten  
12 up the premises and we get to shorter questions or you  
13 deliver a long question, but with no comments.

14 **MS. JONES:** Okay.

15 Would it be fair to say that it would be  
16 reasonable to expect that you would have been interested,  
17 at that point, to see the letter and see what the  
18 allegations were about?

19 **MR. LEDUC:** In all fairness, I think it's  
20 important that you look at what I've struck out. I will  
21 tell you right now I have no recollection whatsoever,  
22 independently, of these documents of what happened so I  
23 have to refer to this document. And if at that time, I  
24 indicated that or that I would have said he may have told  
25 the Bishop who may have told Gordon Bryan, it may be that

1       this information may have included the identity of the  
2       priest. Today in reading this, I can only conclude that,  
3       at that time, I may not have had knowledge of the letter  
4       but I can't tell you from an independent recollection  
5       whether I saw the letter or knew of its contents in  
6       December of 1992.

7                   **MS. JONES:** So when you are then advised in  
8       December 1992 that there are possible allegations of sexual  
9       impropriety on the part of the priest, you were brought in  
10      then as the Diocesan lawyer to provide legal guidance then  
11      to the Bishop and to your client?

12                   **MR. LEDUC:** At that time, I recommended two  
13      things to the Bishop, one -- well to the Bishop via the  
14      bursar, Gordon Bryan; one, notify the insurance; two,  
15      follow the protocol; that was my advice.

16                   **MS. JONES:** Now, would you agree with me  
17      that these were serious -- it was a serious allegation  
18      being made against Father Charlie MacDonald?

19                   **MR. LEDUC:** Yes.

20                   **MS. JONES:** And this is a very important  
21      file for a lawyer to be given carriage of?

22                   **MR. LEDUC:** They're all important files,  
23      from my point of view. Every client is an important  
24      client.

25                   **MS. JONES:** And with regards to this

1 particular file, did you open up a file and keep track of  
2 what your advice was, what the meetings were, who was  
3 present, what you did or didn't view as far as documents?

4 MR. LEDUC: No.

5 MS. JONES: Did you open up any sort of a  
6 file?

7 MR. LEDUC: No.

8 MS. JONES: And what would be your reason  
9 for not opening up a file?

10 MR. LEDUC: I was not -- I did not believe,  
11 at that time, that any written documentation was necessary.  
12 The advice was sought as to what to do and I verbally told  
13 the Bishop through Gordon Bryan, and I may have spoken with  
14 the Bishop himself, to do two things and that was the  
15 advice I gave and I don't recall having opened a file.

16 MS. JONES: Now, it would appear that the  
17 next entry then is February 9<sup>th</sup>, 1993 and you're continuing  
18 your -- not investigation, but you're continuing your  
19 dialogue, shall we say, with the Diocese as you are finding  
20 out more about these allegations; is that a fair  
21 assessments as to what's happening in February?

22 MR. LEDUC: No, I understand if -- is  
23 February 9<sup>th</sup> the date where the persons appointed by the  
24 Bishop met to meet with David Silmser?

25 MS. JONES: Correct, and this was ---



1                   **MR. LEDUC:** Yes.

2                   **MS. JONES:** Okay, so it's part of the  
3 ongoing ---

4                   **MR. LEDUC:** Part of the protocol.

5                   **MS. JONES:** --- I won't call it file, but  
6 part of the protocol.

7                   **MR. LEDUC:** Part of the protocol, yes.

8                   **MS. JONES:** Thank you.

9                   And, as I say, the next entry is February  
10 9<sup>th</sup>, 1993. Did you have any other meetings prior to  
11 February 9<sup>th</sup>, 1993 to discuss what was going to be happening  
12 in that meeting?

13                   **MR. LEDUC:** Not that I recall and if it's  
14 not in this statement ---

15                   **MS. JONES:** Is it fair to presume that there  
16 would have been some sort of a conversation between  
17 December 1992 and February 9<sup>th</sup>, 1993 about what was to  
18 transpire for this meeting?

19                   **MR. LEDUC:** I would have had conversations  
20 asking me if I would be sitting in and acting as counsel,  
21 the availability -- my availability and how to proceed.

22                   **MS. JONES:** Had you ever had any sort of  
23 dealings with Father Charlie MacDonald before you heard of  
24 the allegations December 1992?

25                   **MR. LEDUC:** Once when he was pastor at St.

1 Anthony's in Apple Hill with respect to a roof contract.

2 MS. JONES: And was that through your role  
3 as the lawyer for the Diocese?

4 MR. LEDUC: Yes.

5 MS. JONES: And that was your only contact  
6 with him?

7 MR. LEDUC: Yes.

8 MS. JONES: Okay.

9 And did you have any prior knowledge about  
10 Father Charlie MacDonald?

11 MR. LEDUC: No, I never met Father Charles.

12 MS. JONES: If I could refer you please to  
13 Document 109640?

14 (SHORT PAUSE/COURTE PAUSE)

15 THE COMMISSIONER: Thank you.

16 Exhibit 1890 is a letter dated December 21<sup>st</sup>,  
17 1992 to Monsignor Peter Schonenbach from A.M. MacDonald,  
18 Q.C.

19 ---EXHIBIT NO./PIÈCE NO. 1890:

20 (109640) Letter from A.M. MacDonald to Msgr.  
21 Peter Schonenbach dated December 21, 1992

22 MS. JONES: So this letter then is dated  
23 December 21<sup>st</sup>, 1992 and it's basically alerting the Diocese,  
24 particularly Monsignor Schonenbach, that Father Charlie  
25 MacDonald has retained the services of Malcolm MacDonald?

1                   **MR. LEDUC:** It's alerting the Archdiocese of  
2                   Ottawa. Yes.

3                   **MS. JONES:** Right. Okay.

4                   Presumably, once that was set in motion  
5                   there would have been some sort of a conversation perhaps  
6                   with your client about this that Father Charlie has now  
7                   retained counsel?

8                   **MR. LEDUC:** Not that I recall.

9                   **MS. JONES:** Okay.

10                  And I'd like to go to Exhibit 313, please?

11                  Now, in this exhibit, this is a fax to  
12                  Malcolm MacDonald from Monsignor Schonenbach. The date of  
13                  the fax is December 29<sup>th</sup>, 1992 and it states:

14                                "I called the complainant."

15                  Which would be David Silmser:

16                                "Under the circumstances outlined he  
17                                does not want to cooperate further. He  
18                                intends taking matter to the police."

19                  Do you see that?

20                  **MR. LEDUC:** Yes.

21                  **MS. JONES:** So this is dated December 29<sup>th</sup>,  
22                  1992. Presumably ---

23                  **MR. SKURKA:** With respect, Mr. Commissioner,  
24                  the first question should be to Mr. Leduc is whether or not  
25                  he recognizes this letter, whether he's aware of it before

1 further questions asked.

2 MS. JONES: Were you made aware of this  
3 document?

4 MR. LEDUC: Not that I recall.

5 MS. JONES: Okay.

6 MR. LEDUC: This may be the first time I see  
7 it.

8 MS. JONES: Today?

9 MR. LEDUC: Yes.

10 MS. JONES: Presumably, if your client, once  
11 retaining your services in December, 1992, presumably your  
12 client -- or you would expect a client to alert you of  
13 changes in circumstances in a particular file?

14 MR. LEDUC: After 30 years of practice I  
15 have no expectations from my clients. I provide them  
16 advice when they ask me to provide them advice. I act when  
17 they ask me to act, but I don't -- I don't train them, I  
18 don't manipulate them, if you wish. No, I ---

19 THE COMMISSIONER: When did you find out  
20 that Angus MacDonald was on the case?

21 MR. LEDUC: I have no recollection of the  
22 actual time at which I would have been advised that Father  
23 Charles was represented by Mr. MacDonald. I have --  
24 certainly in August, possibly before then, but I don't  
25 recall. I'd have to look at the statement to see if I make

1 any mention of when I became -- came in contact with Mr.  
2 MacDonald. I have no independent recollection of when that  
3 happened.

4 **MS. JONES:** If we go back now to Exhibit  
5 1887, please.

6 **(SHORT PAUSE/COURTE PAUSE)**

7 **MS. JONES:** Sir, I'm just going to go please  
8 to Exhibit 312 and this is a letter dated December 21<sup>st</sup>,  
9 1992. It's a letter from the office of Malcolm MacDonald  
10 written to Monsignor MacDougald and there's a few  
11 paragraphs I just wish to highlight here.

12 **THE COMMISSIONER:** Yes, sir?

13 **MR. SKURKA:** Again, I renew my objection  
14 that I just made. My friend should start the question by  
15 asking Mr. Leduc if he's seen the letter, and then go to  
16 the contents.

17 **THE COMMISSIONER:** M'hm. Any comments?

18 **MS. JONES:** Fine. Have you seen this letter  
19 before?

20 **MR. LEDUC:** Yes, I think it was -- yes, I  
21 recall seeing, at one point-in-time, this letter, yes.

22 **MS. JONES:** At the important time, around  
23 December, 1992?

24 **MR. LEDUC:** I can't say that, no.

25 **MS. JONES:** With regards to the first

1 paragraph, it states:

2 "Further to our meeting with Father  
3 MacDonald on Thursday, December 17<sup>th</sup>  
4 last, this will confirm that I am  
5 acting for Father Charles in this  
6 matter. I would also advised (sic)  
7 that I spoke briefly this morning with  
8 Monsignor Schonenbach telling him I  
9 would be acting for Father Charles.  
10 Until otherwise directed, I will  
11 continue dealing through your office."

12 Do you see that?

13 **MR. LEDUC:** Yes.

14 **MS. JONES:** Okay. And at the bottom

15 paragraph:

16 "Another thing came to my attention.  
17 My client is prepared to undergo a  
18 polygraph test (lie detector test)  
19 concerning the statement of facts that  
20 he files in reply. Perhaps the  
21 complainant should be questioned as to  
22 his taking a lie detector test on his  
23 statement."

24 Now, at this particular stage then we have  
25 Monsignor Schonenbach's letter that comes after that

1 actually on December 29<sup>th</sup>.

2 Do you now believe that it's possible that  
3 you had had discussions between December, 1992 and the  
4 meeting February 9<sup>th</sup>, 1993 to discuss what was happening  
5 with this particular file?

6 **MR. LEDUC:** No. My recollection is that I  
7 was notified of these events as indicated in the statement  
8 sometime in December of '92, and until setting up the  
9 committee in February of '93 I do not recall any  
10 conversations or meetings other than dealing with the  
11 setting up of the committee and the advice I referred to a  
12 while ago.

13 **MS. JONES:** Okay. So when the meeting is  
14 set up on February 9<sup>th</sup>, 1993, is it fair to say that you  
15 would have at least by that date have been made aware that  
16 Malcolm MacDonald is representing Father Charlie MacDonald?

17 **MR. LEDUC:** I don't recall, but it's  
18 possible.

19 **(SHORT PAUSE/COURTE PAUSE)**

20 **MS. JONES:** The initial complaint was  
21 brought to your attention in December, 1992 and yet you  
22 didn't meet until February 9<sup>th</sup>, 1993. Is there a reason why  
23 there is a gap there of a couple of months?

24 **MR. LEDUC:** I received no further  
25 instructions from my client.

1                   **MS. JONES:** Now, according to your statement  
2                   at Bates page 2725 at the bottom; I'm sorry, at the second-  
3                   to-bottom paragraph, you state that:

4                                 "At the beginning, I explained the  
5                                 purpose of the meeting was to obtain  
6                                 further details pertaining to the  
7                                 complaint to help the complainant and to  
8                                 make recommendations to the Bishop."

9                   Do you see that paragraph, sir?

10                   **MR. LEDUC:** I just want to be clear. We're  
11                   on Bates page zero ---

12                   **THE COMMISSIONER:** It's 725.

13                   **MR. LEDUC:** On 725?

14                   **THE COMMISSIONER:** Yes.

15                   **MR. LEDUC:** Okay, and you are going to the  
16                   bottom of the page?

17                   **MS. JONES:** It's the second paragraph under  
18                   February 9<sup>th</sup>.

19                   **MR. LEDUC:** Yes.

20                   **MS. JONES:** So it seems that you had several  
21                   duties, shall we say, as a result of this meeting. You  
22                   were to get further details, you were to make  
23                   recommendations to the Bishop and you were to help the  
24                   complainant?

25                   **MR. LEDUC:** That's correct.



1                   **MS. JONES:** What did you mean by the phrase  
2 "To help the complainant"? What did you mean by that?

3                   **MR. LEDUC:** I'd have to refer back to the  
4 protocol, but my recollection is that he -- a complainant  
5 is to be well received.

6                   **MS. JONES:** What does that mean?

7                   **MR. LEDUC:** Well, it means to be open to  
8 listening to him, keeping an open mind, being receptive.

9                   **MS. JONES:** This help includes suggesting  
10 therapy or counselling or -- I'm just still not clear what  
11 you mean.

12                   **MR. LEDUC:** Well, that would mean -- that  
13 would be included in any recommendations that would be made  
14 to the Bishop.

15                   **MS. JONES:** Now, prior to the meeting, on  
16 February 9<sup>th</sup>, 1993, am I correct in assuming that just you  
17 on the committee, that's Chancellor Vaillancourt, Monsignor  
18 McDougald and yourself, would have had some sort of a  
19 meeting to decide how this was going to all happen?

20                   **MR. LEDUC:** Yes.

21                   **MS. JONES:** And what was the substance of  
22 that discussion?

23                   **MR. LEDUC:** I don't recall accurately, but  
24 it would have been relating to how we are to open the  
25 discussion and what points we would like -- what points of

1 information we would like to give to the person involved  
2 and probably, if I recall, I was being asked to kind of  
3 lead the questions.

4 **MS. JONES:** That you were being asked to  
5 lead the questions?

6 **MR. LEDUC:** Yes.

7 **MS. JONES:** And what would be the purpose of  
8 you leading the questions versus the other two people?

9 **MR. LEDUC:** I don't know except that that  
10 was the request.

11 **MS. JONES:** So am I correct then in  
12 assessing your role wasn't just as legal counsel, you were  
13 also interviewing the complainant essentially?

14 **MR. LEDUC:** No, I was -- I was there as  
15 legal counsel and so identified.

16 **MS. JONES:** But you also had a dual role of  
17 interviewing the complainant?

18 **MR. LEDUC:** Well, that was part of my role  
19 as counsel.

20 **MS. JONES:** And what else was your role as  
21 counsel?

22 **MR. LEDUC:** To assist the members of the  
23 committee in following the protocol.

24 **MS. JONES:** To confirm that you were the  
25 person leading the discussions, as you yourself stated

1           anyway, I just want to confirm that with the statement by  
2           Father Vaillancourt, which is Exhibit 317 and Document  
3           714941.

4                       **THE COMMISSIONER:** Three-one-seven (317),  
5           yeah.

6                       **MR. LEDUC:** Nine-four?

7                       **THE COMMISSIONER:** No.

8                       **MR. LEDUC:** Document?

9                       **MS. JONES:** Just a moment; Exhibit 317.

10                      **MR. LEDUC:** Yes. I have that.

11                      **MS. JONES:** Okay, just hang on. I'm just  
12           waiting for the other people. They need the Document  
13           Number, 714941. And looking specifically at Bates page  
14           6188.

15                      And just so you know, this is a statement  
16           taken by the OPP on the 29<sup>th</sup> of September, 1994, and Father  
17           Vaillancourt is being asked about this meeting on February  
18           9<sup>th</sup>, 1993, and the officer said:

19                               "Who would have asked the majority of  
20                               the questions at the interview?"

21                      And Father Vaillancourt was confirming that  
22           it was Jacques Leduc. Do you see that portion?

23                      **MR. LEDUC:** Yes.

24                      **MS. JONES:** Okay.

25                      Now, with regards to what the other people's

1 roles were, you were the -- if I can call you the  
2 interviewer and the lead. Is it fair to say that someone  
3 else was assigned the duty of transcribing or writing notes  
4 at the time?

5 **MR. LEDUC:** I don't recall, but I think  
6 Father Vaillancourt may have taken some notes. We had --  
7 Mr. Silmsler did not want the interview tape recorded, if my  
8 recollection serves me right.

9 **MS. JONES:** If I could just help to refresh  
10 your memory, I'm going to refer you please to Exhibit 1889.  
11 That was the long transcript that was exhibited earlier  
12 today. It's got a clip on it. It's not in the book. And  
13 I'm specifically looking at Bates page 3549, which is a  
14 considerable way through the document, more towards the  
15 back than the front.

16 **MR. LEDUC:** Yes.

17 **MS. JONES:** Now, just to set this up, this  
18 is the discovery again and at the discovery, as you likely  
19 know, occasionally statements are read in the record. And  
20 this is actually the statement of Monsignor McDougald being  
21 read in the record and the date of the statement is  
22 February 3<sup>rd</sup>, 1994 and just for the record here at the  
23 Inquiry, that's established on Bates page 3545.

24 So at this particular portion at 3549, that  
25 is Monsignor McDougald's statement being read in the

1 record. So I hope that clarifies what that is.

2 And it's a question-answer interview, so it  
3 reads a little oddly on the disclosure, and I'm looking at  
4 the middle paragraph, which starts:

5 "Was a report made of his interview?"

6 And this is referring to your February 9<sup>th</sup> meeting in 1993.

7 "What became of his report?"

8 Again the question. And the answer is:

9 "A report was made. Jacques insisted  
10 we take minutes and report to the  
11 Bishop. Father Denis Vaillancourt was  
12 nominated to write it up and did so on  
13 his computer. Unfortunately, it was  
14 obliterated from his computer, and  
15 Father Vaillancourt reconstructed these  
16 events from memory when we were going  
17 to the CAS."

18 So does that refresh your memory that ---

19 **MR. LEDUC:** Yes, it does.

20 **MS. JONES:** --- that you had actually put  
21 your minds to the fact that notes should be taken during  
22 this interview?

23 Now, in the meeting, in your summary, in  
24 your statement, and I'm back at Exhibit 1887, it would  
25 appear that the complainant is describing four instances of

1 assaultive behaviour that he's describing happened to him  
2 by Father Charlie MacDonald, and it's fair to say that at  
3 the fourth incident, which is at Bates page 2726, at the  
4 very last paragraph, it stated:

5 "When I requested more details as to  
6 what actually happened on the fourth  
7 incident, the complainant became very  
8 agitated and hostile and I thought was  
9 going to leave the room. He was  
10 accusing me of using tactics which  
11 bothered me because I thought that it  
12 was necessary to have this type of  
13 detail if we were going to be able to  
14 view the matter with Father Charles and  
15 to make a recommendation to the  
16 Bishop."

17 **MR. LEDUC:** Correct.

18 **MS. JONES:** Do you see that?

19 **MR. LEDUC:** Yes.

20 **MS. JONES:** Had there been a discussion as  
21 to the type of tone or the type of questions that you were  
22 going to be asking Mr. Silmsler at this meeting?

23 **MR. LEDUC:** Well, there was a discussion as  
24 to the questions that would be put to him and the  
25 information that was going to be sought.

1                   **MS. JONES:** And what about the tone of the  
2 meeting; was there a general consensus as to what sort of  
3 tone should be taken with Mr. Silmser?

4                   **MR. LEDUC:** My recollection is -- I don't  
5 recall any discussion about what attitude or tone we should  
6 adopt but that it was a very cordial, a very polite  
7 meeting.

8                   **MS. JONES:** Now, I asked you this question  
9 yesterday with respect to the time you spent doing  
10 interviews on the Deslauriers investigation done by  
11 yourself and the ad hoc committee. I asked you yesterday  
12 if you had had any special training in interviewing  
13 techniques.

14                   This is now happening in 1993. Had you  
15 since received any special training in interviewing  
16 specifically persons that are coming forward with  
17 allegations of historical sexual assault?

18                   **MR. LEDUC:** No.

19                   **MS. JONES:** Had you taken any training at  
20 all in just interviewing techniques in a general term?

21                   **MR. LEDUC:** I'm trying to recall any law  
22 society continuing legal education program I would have  
23 taken, and I remember taking -- I can't say that I did  
24 specifically in relation to interviewing techniques;  
25 possibly in relation to preparation for examinations in

1 chief and cross-examinations, but no, I don't think -- I  
2 don't believe so.

3 **MS. JONES:** Had you considered consulting  
4 somebody to find out if there's any sort of special  
5 techniques that should be adopted?

6 **MR. LEDUC:** That wasn't part of my retainer,  
7 in the sense that it wasn't part of the instructions I had  
8 received from my client.

9 The instructions were to attend as a lawyer  
10 at this committee and to receive information from this  
11 person. So there was no direction from the client as to  
12 any other of the issues you're raising.

13 **MS. JONES:** Well, maybe you misunderstood my  
14 question.

15 Regardless of the instructions of the  
16 client, you're being tasked anyway for the client to  
17 interview this person. Did you take it upon yourself to  
18 find out if you should have any special knowledge about  
19 interviewing persons coming forward with allegations of an  
20 historical sexual assault?

21 **MR. LEDUC:** No.

22 **MS. JONES:** Did you have any sort of  
23 training or knowledge as to what to expect when  
24 interviewing a person coming forward with an allegation of  
25 historical sexual assault?



1                   **MR. LEDUC:** I had no such training, no.

2                   **MS. JONES:** I'm curious where you got -- I'm  
3                   sorry, I shouldn't use that phrase I suppose.

4                   I'm wondering if you could advise where you  
5                   got the notion, as you stated in your statement, that you  
6                   needed details of the sexual assault in order to talk about  
7                   Father Charlie MacDonald.

8                   **MR. LEDUC:** We thought it was important to  
9                   get more specific information in relation to the nature of  
10                  the assaults, both -- and I don't want to say that there is  
11                  any such thing as a minor assault but we thought -- the  
12                  community thought it was important to get more detail to  
13                  provide a better report to the Bishop and obviously to  
14                  confront Father Charles with that information. Because my  
15                  recollection is the protocol requires that the person who  
16                  is the subject of the allegation be confronted with the  
17                  allegation itself and to do that in a proper way, I think  
18                  we needed some detail.

19                  **MS. JONES:** Now, at this particular stage --  
20                  and I'm referring you to the next page, Bates page 2727,  
21                  and I'm looking at the paragraph that starts, "I also  
22                  believe" ---

23                  **MR. LEDUC:** Yes.

24                  **MS. JONES:** --- up at the top.

25                  And the first sentence states:

1 "I also believe that the complainant  
2 mentioned that he was going to the  
3 police or had gone to the police and  
4 also indicated that he had spoken to  
5 lawyers..."

6 And I believe you used the words to the effect that he had  
7 the best lawyers in Ottawa.

8 Dealing with that particular sentence there,  
9 you used the phrase "I also believe" which isn't the most  
10 firm of phrases, shall we say, but is it fair to say that  
11 at some point in the meeting it looks as if the topic of  
12 Mr. Silmsler going to the police had actually been  
13 discussed?

14 **MR. LEDUC:** Yes.

15 **MS. JONES:** And is it also fair to say that  
16 by this time, when you have this February meeting, you  
17 would have at least asked your client to see any  
18 correspondence pertaining to this matter ahead of time,  
19 such as Monsignor Schonenbach's letter or fax that I  
20 referred to earlier which states on December 29<sup>th</sup>, 1992 that  
21 now Mr. Silmsler is going to the police?

22 **MR. LEDUC:** No, my specific assignment was  
23 to attend and do the committee work. There had been no  
24 other instructions in relation to any collateral issues, if  
25 I can refer to them in that way.

1                   **MS. JONES:** So you were just on the  
2 committee and that was your instruction to get further  
3 details then from Mr. Silmsers?

4                   **MR. LEDUC:** Well, to follow the protocol  
5 which included what we've just discussed, yes.

6                   **MS. JONES:** Now, when you had this meeting  
7 with -- this first meeting with Mr. Silmsers -- I say first  
8 actually, maybe I should clarify that. Did you have any  
9 further meetings, as a committee, with Mr. Silmsers besides  
10 this one?

11                   **MR. LEDUC:** No.

12                   **MS. JONES:** So when you had this meeting  
13 with Mr. Silmsers, is it fair to say that when he came there  
14 to you on February 9<sup>th</sup>, 1993 he was looking solely at that  
15 point for an apology from the Diocese as to what happened  
16 to him, or an apology, I should say more specifically, from  
17 Father Charlie MacDonald?

18                   **MR. LEDUC:** I can't tell you what he was  
19 looking for except I can tell you that what he did ask for  
20 was a letter of apology from Father Charles to give to his  
21 mother?

22                   **MS. JONES:** And I want to be really clear  
23 about this, that it would appear -- and I'm going to just  
24 refer you to a couple of documents of notes of Father  
25 Vaillancourt and Monsignor MacDougald. I hope I'm getting

1           these prefaces correct.

2                           If I could please look at Document 714939;  
3           it's a cross document.

4                           **THE COMMISSIONER:** Thank you.

5                           Exhibit Number 1891 is an interview report  
6           of Monsignor MacDougald dated October 14<sup>th</sup>, 1994.

7           **--- EXHIBIT NO./PIÈCE NO. P-1891:**

8                           (714939) Interview Report of Msgr.  
9                           MacDougald dated October 14, 1994

10                          **MS. JONES:** Thank you.

11                          And just to again describe what this  
12           document is, this is an interview that was taken by the OPP  
13           officers in October, 1994 and it seems Monsignor  
14           MacDougald, in the portion I'm going to put to you, is  
15           recounting the meeting of February 9<sup>th</sup>, 1993.

16                          And I'm specifically looking at Bates page  
17           6166, and I'm about halfway down with, "And he stated  
18           basically". And he states here:

19                                    "And he stated basically..." --  
20           meaning David Silmser:

21   "...the same charges over the phone, and  
22   he had stated too in the letter that  
23   what he expected from Father Charles  
24   MacDonald was an apology."

25                          So he's describing from his point-of-view

1 what he felt was the item that David Silmsner wanted as a  
2 result of this meeting with you on that particular day.

3 I'll also refer you to Exhibit 1853 and I'm  
4 looking at -- and the face of the document doesn't really  
5 tell you what this is. If you go to the back though of the  
6 two-page document, this is something typed up by Father  
7 Vaillancourt and on the front he's summarizing his  
8 involvement with the Father Charles situation.

9 And if I can just refer you to the second  
10 page -- this is Bates page 8874 -- again, he's describing  
11 the February 9<sup>th</sup>, 1993 meeting of the committee with David  
12 Silmsner. He said:

13 "He stated that all he wanted was a  
14 letter of apology from Father MacDonald  
15 to be sent to David's mother."

16 So it would appear that all three of you  
17 from the committee have the same recollection with regards  
18 to the fact that a letter of apology was first and foremost  
19 in Mr. Silmsner's mind when he attended at that meeting. Is  
20 that a fair assessment?

21 **MR. LEDUC:** That's what he expressed, yes.

22 **MS. JONES:** And in the other two statements,  
23 and I don't know if you've had a chance to read them or  
24 not, but there is no comment about Mr. Silmsner stating he  
25 wanted any money or that he was going to sue the Diocese at

1           this meeting on February 9<sup>th</sup>, 1993?

2                       **MR. LEDUC:** I believe that that's my  
3           recollection in my statement.

4                       **MS. JONES:** And that is consistent with the  
5           paragraph of Exhibit 1887, Bates page 2727, where you state  
6           as well in that second sentence of the first paragraph ---

7                       **MR. LEDUC:** That's correct.

8                       **MS. JONES:** And you state:

9                               "However, I cannot recall him ever  
10                              coming right out and saying that he was  
11                              going to sue the Diocese or that he was  
12                              seeking compensation from us."

13                       **MR. LEDUC:** That's correct.

14                       **MS. JONES:** So it certainly would appear  
15           from this particular assessment from the three of you who  
16           were on the committee that it was not Mr. Silmsers idea to  
17           come up with any sort of monetary compensation.

18                               Would you agree with that?

19                       **MR. LEDUC:** No. I think he didn't make any  
20           claim for compensation but he did say that he had retained  
21           lawyers. So although he didn't say that he was making a  
22           claim or wanted compensation, this is telling me that he  
23           had mentioned that I have the best lawyers in Ottawa. One  
24           would assume that he had or he was going to retain counsel.

25                       **MS. JONES:** And so that's the reason why you

1 brought up the issue of compensation to Mr. Silmsers?

2 MR. LEDUC: I don't recall why I would have  
3 brought it up and I'm not sure I am the one who did bring  
4 it up. Maybe; I don't know.

5 MS. JONES: Well, it would appear on the  
6 third paragraph of Bates page 2727 ---

7 MR. LEDUC: Yes.

8 MS. JONES: --- and it states here:

9 "There was no discussion of  
10 compensating him for what had allegedly  
11 occurred. However, he did indicate  
12 that he was in therapy and I can recall  
13 that we indicated to him that in the  
14 past the Diocese has been prepared to  
15 help out providing compensation for  
16 these costs. I stressed that it would  
17 have to be done without being seen as  
18 an admission on the part of the  
19 Diocese."

20 MR. LEDUC: That's correct.

21 MS. JONES: So would you agree that the  
22 reading of that seems to be that either you or one of the  
23 three of you on the committee seems to have been the one  
24 initiating the idea of monetary compensation to Mr.  
25 Silmsers?

1                   **MR. LEDUC:** Well, I can't recall who  
2 initiated any such discussion but it was not a discussion  
3 of -- how would I say this -- blank compensation. It was a  
4 discussion as to a potential offer of assistance to pay for  
5 therapy, as had been done by the Diocese previously in the  
6 Deslauriers matter.

7                   **MS. JONES:** But you will agree by your own  
8 words in your statement that one of the committee members,  
9 not Mr. Silmser, had come up with the notion of  
10 compensating for the costs of the therapy?

11                   **MR. LEDUC:** Yes. Yes.

12                   **MS. JONES:** I just want to be really, really  
13 clear.

14                   **MR. LEDUC:** Yes.

15                   **MS. JONES:** It's not Mr. Silmser.

16                   **MR. LEDUC:** Oh, I don't know if it was Mr.  
17 Silmser or not. This paragraph says "we." We indicated to  
18 him that in the past the Diocese had done so. I have no  
19 recollection if Mr. Silmser brought it up or if one of the  
20 other members suggested that we offer him this assistance.

21                   **MS. JONES:** Well, having made reference to  
22 the other two statements, it was pretty clear according to  
23 Vaillancourt and McDougald that Mr. Silmser had stated to  
24 the committee that he only wanted an apology.

25                   **MR. SKURKA:** Yes, I take issue with my



1 friend's categorization of the Will Say being pretty clear.  
2 It's hearsay. There's no ability to test it. It has some  
3 marginal evidentiary foundation, I appreciate it, but  
4 that's far from being pretty clear, in my respectful  
5 submission.

6 **THE COMMISSIONER:** Well, that's -- first of  
7 all, which Will Say are we talking about?

8 **MS. SKURKA:** The two Will States that my  
9 friend referred to earlier. I'm sorry. I apologize. The  
10 two Will States that my friend referred to earlier, she now  
11 came back and referred to them again and said it's pretty  
12 clear based on those two Will States and then asserted a  
13 fact. And in my submission, nothing is pretty clear from a  
14 Will Say.

15 **THE COMMISSIONER:** Well, it's -- your  
16 comments?

17 **MS. JONES:** Well, both of those people have  
18 the opportunity. I believe that Father Vaillancourt has  
19 already testified here at the inquiry. So there actually  
20 has been an opportunity to look at that Will State and have  
21 it verified by the people who made the statement.

22 **THE COMMISSIONER:** Okay. Well, let's cut  
23 out the -- how clear it is and put the question to him.

24 **MS. JONES:** Okay. It would appear from the  
25 statements or the Will States of the two other people on

1 the committee that Mr. Silmsers attended the meeting and  
2 asked that he have an apology from Father Charlie in order  
3 to give to his mother, and that's consistent with what you  
4 said as well.

5 MR. LEDUC: Yes.

6 MS. JONES: Would you agree with me that in  
7 the statements or the Will States of the other two  
8 committee members, the issue of compensation does not seem  
9 to have arisen or been initiated by Mr. Silmsers?

10 MR. LEDUC: From my brief reading, yes.

11 MS. JONES: And I would say your statement  
12 is actually consistent with that as well in the sense that  
13 you're saying here:

14 "I can recall that we indicated to him  
15 that in the past the Diocese had  
16 compensated people for therapy."

17 MR. LEDUC: That's correct.

18 MS. JONES: It doesn't seem to be something  
19 in response to something that he had requested or had  
20 brought up initially.

21 MR. LEDUC: It may not seem that way but if  
22 you're asking me who initiated that discussion, I can't  
23 tell you.

24 MS. JONES: Can we at least narrow it down  
25 to one of the three committee members?

1                   **MR. LEDUC:** No, because I don't recall if  
2                   Mr. Silmsler would have brought it up either. I do not  
3                   recall who would have brought it up.

4                   **THE COMMISSIONER:** Could we take a break  
5                   shortly? Is now a good time?

6                   **MS. JONES:** This is a good time.

7                   **THE COMMISSIONER:** We'll take the morning  
8                   break. Thank you.

9                   **THE REGISTRAR:** Order; all rise. À l'ordre;  
10                  veuillez vous lever.

11                  This hearing will resume at 10:45.

12                  --- Upon recessing at 10:30 a.m. /

13                  L'audience est suspendue à 10h30

14                  --- Upon resuming at 11:03 a.m. /

15                  L'audience est reprise à 11h03

16                  **THE REGISTRAR:** Order; all rise. À l'ordre;  
17                  veuillez vous lever.

18                  This hearing is now resumed. Please be  
19                  seated. Veuillez vous asseoir.

20                  **THE COMMISSIONER:** Ms. Jones?

21                  **MS. JONES:** Thank you.

22                  **JACQUES LEDUC, Resumed/Sous le même serment:**

23                  --- EXAMINATION IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MS.

24                  **JONES: (Continued/Suite)**

25                  **MS. JONES:** I just wanted to clarify before

1 I start questioning Mr. Leduc, just going back to the  
2 Deslauriers issue about the appeal, I want to be very clear  
3 about this.

4 I had stated that the Crown appealed and the  
5 appeal was denied. We've looked up this particular issue  
6 and it would appear, just to clarify for the record, that  
7 the local Crown attorney did wish to have the sentence  
8 portion appealed because it was a guilty plea. And the  
9 denial was actually at the Toronto level of the Crown  
10 Attorney's Office. So I just want to clarify that.

11 **THE COMMISSIONER:** Good. Thank you.

12 **(SHORT PAUSE/COURTE PAUSE)**

13 **THE COMMISSIONER:** Monsieur Leduc, can I ask  
14 you a question? And I don't know -- you're of the view  
15 that a witness has a right to refuse to say what was said  
16 in the confessional by him to a priest?

17 **MR. LEDUC:** No. I am of the view that a  
18 witness who is being examined or cross-examined, if a  
19 subject matter is raised that issued in it, you know, was  
20 part of a confessional, that he has the right to tell the  
21 judge and have the judge decide whether or not he should  
22 answer the question.

23 The issue is whether or not the witness  
24 could put before the court that issue.

25 **THE COMMISSIONER:** But do you know of any

1 rule in law that says that a person who goes to the  
2 confessional, not the priest now and that's a whole  
3 different story, is exempt from telling the Court what he  
4 said during the confession?

5 **MR. LEDUC:** No, there is no such rule.

6 **THE COMMISSIONER:** So then when in the  
7 examination for discovery -- in the preliminary inquiry,  
8 when -- can you show me the defence counsel's comment?

9 **MS. JONES:** I can. It is -- it's Document  
10 114 ---

11 **THE COMMISSIONER:** I'm not interested in  
12 documents. I want the exhibits.

13 **MS. JONES:** Okay. I can write down these;  
14 71B and C are the two transcripts.

15 **THE COMMISSIONER:** Okay. And we don't have  
16 those, do we? Madam Clerk, can you put them on the -- I do  
17 now?

18 So can we go back to that? What page?

19 **MS. JONES:** Do you want the reference in  
20 71B, Madam Clerk, the page number? The page number for 71B  
21 is 2027.

22 **MS. HEINEIN:** Mr. Commissioner, I just want  
23 to address a comment that you just made in the question  
24 that you put to Mr. Leduc, just to be of assistance to the  
25 Commission.

1                   **THE COMMISSIONER:** M'hm.

2                   **MS. HEINEIN:** And that is whether there is  
3 any priest penitent privilege and an individual, a  
4 layperson can refuse to answer questions.

5                   **THE COMMISSIONER:** M'hm.

6                   **MS. HEINEIN:** And until 1991, there is a  
7 great deal of law actually in the lower courts and there  
8 was a dispute as to whether or not the law recognized a  
9 priest penitent privilege.

10                   So at the time that this was proceeding, it  
11 was a live issue and in *Gruenke* in 1991 the Supreme Court  
12 of Canada concluded there was no such privilege and that  
13 they would not extend it as a class privilege although it  
14 could be raised on a case-by-case privilege applying the  
15 *Wigmore* test.

16                   **THE COMMISSIONER:** M'hm.

17                   **MS. HEINEIN:** So I just wanted to address  
18 that in terms of the state of the law and the question that  
19 was put to Mr. Leduc, if that's of assistance to you.

20                   **THE COMMISSIONER:** Thank you. Yes.

21                   So what page?

22                   **MS. JONES:** Yes, page 2027. This is the  
23 defence lawyer.

24                   **THE COMMISSIONER:** And where is it?

25                   **MS. JONES:** In the paragraph that starts

1 with "Avant." It's on the screen.

2 **THE COMMISSIONER:** Okay. Well, then we've  
3 got a problem then because what he is saying is that not  
4 that he can bring it up to the judge, Mr. Charlebois is of  
5 the view that you're not obligated to tell the Court unless  
6 you decide that you're willing to do it, and I don't think  
7 that was ever the law in Ontario.

8 So, all right, now let's go back to what  
9 Monsieur Leduc said to Monsieur Brisson the morning of the  
10 break; can we go to that?

11 **MS. JONES:** That's Exhibit 71-C.

12 **THE COMMISSIONER:** M'hm.

13 **MS. JONES:** And the Bates page is 2059.

14 **THE COMMISSIONER:** Okay. So what did --  
15 where ---

16 **MS. JONES:** It starts, "The cross-  
17 examination of Me. Charlebois" and the second question he  
18 starts asking.

19 **THE COMMISSIONER:** Okay. And where ---

20 **MS. HEINEIN:** To assist you, Mr.  
21 Commissioner, and my friend, perhaps reference to the  
22 Crown's comment on this issue of what Mr. Leduc's advice  
23 was ---

24 **THE COMMISSIONER:** Yes.

25 **MS. HEINEIN:** --- would be of assistance,

1 and the Bates page is 1072060.

2 **THE COMMISSIONER:** Yeah, I'm there. Okay.

3 **MS. HEINEIN:** Thank you.

4 **THE COMMISSIONER:** Okay. So where is the  
5 answer? So, okay, where are we now? What I want to know  
6 is what did Monsieur -- what evidence do we have of what  
7 Monsieur Leduc told Monsieur Brisson?

8 **MS. JONES:** Well, we just have what he said  
9 here today in the Inquiry.

10 **THE COMMISSIONER:** And what did he say?

11 **MS. JONES:** And what was your evidence on  
12 that point, sir? Without putting words in your mouth, what  
13 was it that you advised Mr. Brisson at the time?

14 **MR. LEDUC:** I advised Mr. Brisson that if a  
15 subject matter that was the subject of a confession came up  
16 in his cross-examination that he was to so advise the  
17 Court. That was my advice. And that I believe is  
18 confirmed by ---

19 **THE COMMISSIONER:** Yes, Monsieur Masse.

20 **MR. LEDUC:** And by Monsieur Brisson.

21 **THE COMMISSIONER:** Okay. Good. Thank you.

22 **(SHORT PAUSE/COURTE PAUSE)**

23 **MS. JONES:** Thank you.

24 I want to refer you to a couple of places  
25 and a couple of documents. And just again trying to get



1           what was in your mindset at the time when you entered into  
2           this February 9<sup>th</sup>, 1993 meeting, and if we can go back to  
3           that. I believe I've asked you this question already but  
4           just to clarify, is it your evidence that you do remember  
5           or recall that you may have known that Mr. Silmsler had  
6           retained a lawyer, certainly at the time that you had the  
7           meeting?

8                       **MR. LEDUC:** My recollection, as is noted in  
9           my statement, and that is, Mr. Silmsler would have said "I  
10          have the best lawyers in Ottawa."

11                      **MS. JONES:** Now, what about specifically  
12          Malcolm MacDonald, because I've referred you to documents  
13          from Monsignor Schonenbach and there's correspondence back  
14          and forth where Malcolm MacDonald is confirming he is  
15          actually representing Father Charlie MacDonald, and that's  
16          dated from December 1992; were you aware of that  
17          representation?

18                      **MR. LEDUC:** Not that I recall at that time.

19                      **MS. JONES:** So the only lawyer involvement,  
20          you are stating, at the time, was what Mr. Silmsler said  
21          "I've hired the best lawyers in Ottawa" or something to  
22          that effect?

23                      **MR. LEDUC:** With respect to Mr. Silmsler's  
24          representation, yes.

25                      **MS. JONES:** Now, I want to refer you to two

1 places. One is the document that again we'd like to keep  
2 on the screen which is Exhibit 1887. In Bates page 2728  
3 the second paragraph it says, "Sometime after the initial  
4 meeting."

5 **MR. LEDUC:** Yes.

6 **MS. JONES:** It states there -- these are  
7 your words in your statement:

8 "Sometime after the initial meeting  
9 with the complainant I had my first  
10 contact with Malcolm MacDonald on this  
11 subject. I was advised by him that  
12 there was an ongoing criminal  
13 investigation and that Malcolm  
14 MacDonald was monitoring it through his  
15 contacts with the investigators, one of  
16 whom I believe was a constable whose  
17 first name was Heidi."

18 **MR. LEDUC:** That's correct.

19 **MS. JONES:** Now, I also want to refer you  
20 please to Exhibit 863.

21 **(SHORT PAUSE/COURTE PAUSE)**

22 **MS. JONES:** Now, just to describe what this  
23 document is, this is an interview of Malcolm MacDonald to  
24 the OPP on the 28<sup>th</sup> of October 1994. It's approximately a  
25 one hour long interview. And Mr. MacDonald is recounting

1 his recollection of any contact he had with you concerning  
2 this particular time period and Mr. Silmser.

3 I just want to refer you to Mr. MacDonald's  
4 statement and -- or interview report as it's called, Bates  
5 page 5937. It's page 11. And I'm referring down to about  
6 a third of the way down you'll see that your name is  
7 capitalized down there.

8 That's the portion I'm looking at, Madam  
9 Clerk.

10 And Mr. MacDonald is describing the  
11 committee which he says:

12 "The Diocesan that carry out their regular inquiry, if  
13 you'd call it that, in which I  
14 understand is made up of Monsignor  
15 MacDougald and I think Monsignor  
16 Guindon and one other priest anyway and  
17 the church solicitor who was then  
18 Jacques Leduc. Jacques Leduc reported  
19 back to me as to what happened and  
20 basically what he said he wouldn't come  
21 through with any details or any that  
22 was just said but there was a complaint  
23 made some summer, some, you know. And  
24 he wanted to try to pinpoint him as to  
25 well, what did he do; did he touch you

1                                   here or did he do this?"

2                                   So it seems that they're describing --  
3                                   because you said there was only one meeting with the  
4                                   committee and Mr. Silmser, so it has to be that February 9<sup>th</sup>  
5                                   meeting.

6                                   The words that are significant here though  
7                                   is the phrase:

8   "Jacques Leduc reported back to me as  
9   to what happened."

10                                   An interpretation of the words could be that  
11                                   you'd had prior contact with Mr. MacDonald saying, we're  
12                                   going to have this meeting and now this is what's happened.  
13                                   Did you have any contact with Mr. MacDonald before the  
14                                   meeting possibly?

15                                   **MR. LEDUC:** No.

16                                   **MS. JONES:** Okay. Now, at the end of the  
17                                   meeting, I understand that you had offered Mr. Silmser some  
18                                   sympathy and encouragement and did you also say that if he  
19                                   was going to go to the police, "We support you in that,  
20                                   whatever your decision may be", or words to that effect?

21                                   **MR. LEDUC:** I don't recall what was actually  
22                                   said to him.

23                                   **MS. JONES:** Okay. Did the meeting end when  
24                                   Mr. Silmser became agitated with your line of questioning?

25                                   **MR. LEDUC:** No, not immediately.

1                   **MS. JONES:** Now, do you understand today how  
2                   difficult it is for victims of historical sexual assault to  
3                   come forward with allegations and make complaints?

4                   **MR. LEDUC:** Do I understand this today?  
5                   Yes.

6                   **MS. JONES:** Do you have a better  
7                   understanding of it today than perhaps in 1993 or 1992?

8                   **MR. LEDUC:** I hope I have a better  
9                   understanding of most things today, but then I would think  
10                  that I would be more sensitive to those issues, yes. Not  
11                  to say that I wasn't sensitive then. With age and maturity  
12                  and -- yes.

13                  **MS. JONES:** Now, one of the topics that was  
14                  discussed, of course, was the credibility of Mr. Silmser,  
15                  and one of the issues that came up in assessing his  
16                  credibility was that perhaps because he didn't reveal  
17                  details of the allegations that that somehow affected his  
18                  credibility. Do you recall that?

19                  **MR. LEDUC:** I'm not sure that -- I'm not  
20                  sure of the discussion, if that's what you're asking me.  
21                  Certainly, we would have discussed his credibility, but my  
22                  recent reviews of materials reminded me that Monsignor  
23                  McDougald had some particular concern about allegations of  
24                  Father Charles' violence and that kind of created a  
25                  question in his mind as to the veracity of what was being

1           said.

2                           **MS. JONES:** If I could go to Bates page  
3           2727, please, of the Exhibit 1887 again?

4                           **(SHORT PAUSE/COURTE PAUSE)**

5                           **MS. JONES:** And I'm looking at the last  
6           bullet point starting with, "After hearing" and I'll just  
7           read out that paragraph.

8                                    "After hearing the complainant's story,  
9                                    we, as members of the committee, agree  
10                                   that his anguish appeared real and that  
11                                   he was extremely emotional by what  
12                                   occurred. We felt that he was either  
13                                   telling the truth or was one of the  
14                                   best actors possible. There was no  
15                                   doubt that we had some sympathy for his  
16                                   situation, but had a problem with his  
17                                   credibility as a result of his refusal  
18                                   to provide details or occurrences."

19                           **MR. LEDUC:** That's correct.

20                           **MS. JONES:** So that seems to have been, by  
21           your words, the main reason why you had any doubts about  
22           his credibility. Is that a fair assessment?

23                           **MR. LEDUC:** With respect to the details of  
24           occurrences, yes.

25                           **MS. JONES:** Yes?

1                   **MR. LEDUC:** Yes.

2                   **MS. JONES:** Are you aware how difficult it  
3 is for people who are making complaints of historical  
4 sexual abuse? Are you aware how difficult it is for people  
5 to come forward and describe the details of what had  
6 occurred to them?

7                   **MR. SKURKA:** Is that a question in relation  
8 to his present state of mind or his state of mind at the  
9 time, Mr. Commissioner?

10                   **THE COMMISSIONER:** Which would you ---

11                   **MS. JONES:** At the time, were you aware of  
12 that?

13                   **MR. LEDUC:** I was aware that anyone coming  
14 forth with those complaints would have a difficult go of  
15 it, yes.

16                   **MS. JONES:** And also, at the time, just by  
17 the very fact that they're historical, that and in and of  
18 itself does that perhaps indicate to you that victims of  
19 historical sexual abuse take some time to come forward with  
20 those allegations?

21                   **MR. LEDUC:** I'm not sure what I knew about  
22 that at the time.

23                   **MS. JONES:** And also too did it occur to you  
24 at the time of this meeting that Mr. Silmsler is making  
25 these allegations by a priest -- and two of your committee

1 members are actually priests -- did it occur to you at the  
2 time that perhaps that would be a factor in why Mr. Silmser  
3 was not coming forward with details and facts sufficient to  
4 your satisfaction?

5 **MR. LEDUC:** I could be mistaken, but I think  
6 the committee is set up in accordance with a protocol and I  
7 think it requires -- I'm not sure, we'd have to look. I'm  
8 just wondering if it didn't require the presence of a  
9 priest and whether there's any wisdom to that some -- how  
10 many years -- not quite 20 years later or, yeah, 20 years  
11 later; no, not quite, 14 to 15 years later. I don't know.  
12 I can't answer that. I don't know. I don't know about  
13 that issue then, whether or not it was a live issue.

14 **MS. JONES:** So how about now, looking back,  
15 can you understand perhaps someone having to come forward  
16 with these allegations in front of the very sort of  
17 institution that he's saying had committed these sexual  
18 assaults against him? Can you see that that might be a  
19 factor?

20 **MR. LEDUC:** Today, it's a whole new world in  
21 relation to these matters, yes.

22 **MS. JONES:** I understand that, but can you  
23 understand that that may be one reason why his lack of  
24 forthrightness on details may not have been to your  
25 satisfaction on that day?



1                   **MR. LEDUC:** In all fairness, it could have  
2                   been a number of reasons why he was being -- not being  
3                   forthcoming with more detail.

4                   **MS. JONES:** Is it possible that that's one  
5                   of the reasons?

6                   **MR. LEDUC:** Yes.

7                   **MS. JONES:** But this, of course, was not  
8                   discussed afterwards?

9                   **MR. LEDUC:** Not that I recall.

10                  **MR. SKURKA:** With respect, Mr. Commissioner,  
11                  to say but this was not discussed afterwards really is not  
12                  fair because he's now looking through the lens of today  
13                  looking back at the time and my submission, it's not fair  
14                  to say something wouldn't have been discussed that's only  
15                  apparent to you now.

16                  **THE COMMISSIONER:** What? No, I know, but I  
17                  think it's fair just to cover it off. I mean, I can make  
18                  those conclusions on my own. The only thing he's saying is  
19                  those are things, yes, they are valid considerations ---

20                  **MR. SKURKA:** Yes.

21                  **THE COMMISSIONER:** --- and we did not  
22                  discuss them then.

23                  **MR. SKURKA:** Well, the word "but", but you  
24                  didn't discuss them then, and the word "but" is the word  
25                  that I object to because it seems to connote, in my

1 respectful submission, that you have this impression that  
2 there may be a problem with the optics of having priests on  
3 a committee, but you didn't discuss it then and that's my  
4 respectful submission.

5 **THE COMMISSIONER:** Well, this isn't a trial.  
6 This is an Inquiry.

7 **MR. SKURKA:** Yes.

8 **THE COMMISSIONER:** I'm the one who is going  
9 to be making the decisions and I can understand that he's  
10 saying, it's a whole new world and that's his position.  
11 And then, okay, now we've stopped that. Did you discuss  
12 these things during then? No. Okay?

13 **MR. SKURKA:** Thank you, sir.

14 **THE COMMISSIONER:** No harm done.

15 **MS. JONES:** The only other place I want to  
16 talk about with respect to finding Mr. Silmsen credible is  
17 Exhibit 1889, that's the discovery transcript again and I'm  
18 referring to Bates page 3548.

19 **(SHORT PAUSE/COURTE PAUSE)**

20 **MR. LEDUC:** Okay.

21 **MS. JONES:** And up in the first sort of  
22 paragraph -- this by the way, just to clarify, this is the  
23 statement of Monsignor McDougald that was read into the  
24 record. I had made reference to that earlier, and this is  
25 a portion of this statement being read into it and this was

1 Monsignor McDougald's reflections on Mr. Silmser's  
2 presentation on the day of the February, 1993 meeting.

3 And perhaps I can start on the page before  
4 to get the complete sentence and the context:

5 "During the meeting with the  
6 complainant, the complainant reiterated  
7 his allegations. I asked him  
8 specifically after I told him I had  
9 spoken with Father Charles why he would  
10 have been associating with this alleged  
11 abuser 10 years later? And he replied  
12 he was going to get him. This  
13 vindictiveness confused me in light of  
14 all that Father Charles had done for  
15 him."

16 So it would appear that Monsignor McDougald  
17 was, at the very least, confused by perhaps Mr. Silmser's  
18 position vis-à-vis Father Charlie MacDonald when he was at  
19 that meeting in February, 1993.

20 After Mr. Silmser left, was there a  
21 discussion about this point?

22 **MR. LEDUC:** I don't recall.

23 **MS. JONES:** Did you feel, as Monsignor  
24 McDougald felt, confused that the person who claimed to be  
25 sexually abused by someone in an historical fashion and by

1 someone in a position of trust, would still feel vindictive  
2 against that person all those years later? Did you have  
3 that same confusion as Monsignor McDougald?

4 **MR. LEDUC:** I don't recall what I would have  
5 thought at that time. It's not -- I have no memory of  
6 either any discussion or any analysis or thought process  
7 that I would going through then.

8 **MS. JONES:** Now, apparently -- we had talked  
9 about this earlier -- you had assigned Monsignor McDougald  
10 and Father Vaillancourt to make a report of the meeting and  
11 get detailed notes and make sure that we get something in  
12 writing and I already established that with you earlier.  
13 Did you ---

14 **MR. LEDUC:** Yes, I apprised them to prepare  
15 a report for the Bishop in accordance with the protocol.

16 **MS. JONES:** And I understand that you  
17 learned at some point that there had been some calls to  
18 Monsignor McDougald; between Mr. Silmser and Monsignor  
19 McDougals. Is that correct?

20 **MR. LEDUC:** Yes.

21 **MS. JONES:** And do you know who called who  
22 or what it was all about?

23 **MR. LEDUC:** I don't recall. I don't know.

24 **MS. JONES:** Now, I believe I've asked this  
25 question earlier, with regards to when you first were

1 retained on this file in December, 1992. Did you, at this  
2 point in February, open up a file on this matter ---

3 MR. LEDUC: No.

4 MS. JONES: --- to keep track of the time  
5 you were putting in or keep track of what was happening and  
6 contacts that were made?

7 MR. LEDUC: No.

8 MS. JONES: And the written report that you  
9 had tasked Monsignor McDougald and Father Vaillancourt to  
10 write, was that actually prepared?

11 MR. LEDUC: Not at that time.

12 MS. JONES: What was your instruction to  
13 them or what was your understanding from your clients to  
14 make the instructions?

15 MR. LEDUC: My very clear instructions, if  
16 you wish, to both Father Vaillancourt and Monsignor  
17 McDougald was that they were -- we agreed that they were to  
18 prepare the report and that Monsignor McDougald was to  
19 submit it to the Bishop. And that's essentially the end of  
20 my participation in the committee.

21 MS. JONES: Would it be fair to say that the  
22 emphasis on doing this in a very timely fashion was  
23 emphasized by you as well?

24 MR. LEDUC: I don't recollect my exact  
25 words, but they were to prepare it following the meeting,

1       yes. I don't remember discussing any timelines if that's  
2       what you're referring to.

3               **MS. JONES:** So if you didn't discuss any  
4       timelines then, is it fair to say that you didn't then  
5       attach any sense of priority to it?

6               **MR. LEDUC:** No, I didn't say that. I said  
7       that I don't recall attaching any timelines to it. My only  
8       recollection is that I told them very clearly that a report  
9       was to be prepared in writing and submitted to the Bishop.

10              **MS. JONES:** Now, in thinking about this  
11       particular report, your evidence then I assume would be you  
12       never read a report?

13              **MR. LEDUC:** I never did, no.

14              **MS. JONES:** Did you ---

15              **MR. LEDUC:** Not then. And only  
16       subsequently, quite some time later.

17              **MS. JONES:** It's fair to say that you were  
18       tasked with basically leading the interview?

19              **MR. LEDUC:** The questioning, yes.

20              **MS. JONES:** And would it also be fair to say  
21       that you're the one who gave the instruction to write the  
22       report?

23              **MR. LEDUC:** Well, it's a matter of speaking.  
24       You know, after we finished with Mr. Silmsler, we certainly  
25       had some discussions as to what the report would be and

1           what recommendations could be made in the report.

2                           And I clearly recall that there was a  
3           decision of the three of us that a report was to be  
4           prepared and Monsignor McDougald was to provide it to the  
5           Bishop.

6                           **MS. JONES:**   And that's because your client,  
7           the Bishop, had asked you for such a report to be made to  
8           him I assume?

9                           **MR. LEDUC:**   Because the protocol required a  
10          written report be submitted to the Bishop, yes.

11                          **MS. JONES:**   And supported by the fact -- I'm  
12          assuming anyway, your client instructed you to follow the  
13          protocol?

14                          **MR. LEDUC:**   My client instructed me to  
15          attend as a lawyer on the committee, yes.

16                          **MS. JONES:**   And to follow the protocol?

17                          **MR. LEDUC:**   And obviously, if we're there  
18          because of the protocol, we would have to follow it.   And  
19          those were my directions, if you wish, to both Father  
20          Vaillancourt and Monsignor McDougald.

21                          **MS. JONES:**   So what I need an explanation of  
22          then is how you didn't actually comply with the protocol  
23          and ensure that that report was written and ensure that  
24          your client was then advised.

25                          **MR. LEDUC:**   Well, just give me a moment.

1 I do not feel, and I didn't at that time,  
2 that it was my obligation to assure that my client complied  
3 with its own protocol. My function as counsel was to  
4 advise on the protocol; participate in the protocol as a  
5 member of the committee; give advice as to the compliance  
6 with the protocol.

7 But I, as a lawyer, certainly do not have an  
8 obligation to see to its execution and ultimate  
9 realization.

10 **MS. JONES:** Is the protocol considered canon  
11 law in any way?

12 **MR. LEDUC:** Would the protocol be a subject  
13 of canon law, yes.

14 **MS. JONES:** Because you said you would give  
15 advice then on the protocol.

16 **MR. LEDUC:** My advice was civil advice.  
17 Canon law is the internal management rule of the  
18 corporation, if I can put it in that simple term.  
19 Following the protocol which had been adopted by the  
20 Diocese was a matter of self regulation if you wish. And I  
21 thought that the Diocese should exercise due diligence, and  
22 so advised the Diocese, follow the protocol.

23 **MS. JONES:** And as leader of the committee  
24 who led the interview, in any event, are you saying it was  
25 not part of your instruction to make sure that the rest of



1 your committee was adhering to the protocol? Are you  
2 saying that was not actually part of your mandate?

3 **MR. LEDUC:** I was not the leader of the  
4 committee, Monsignor McDougald was the Chair. I was given  
5 the task of leading the questions. And as I've just said,  
6 it was not part of my retainer or mandate to see to the  
7 compliance of the protocol.

8 My function as lawyer is to advise as to how  
9 it is to be complied it. Whether the client complies with  
10 it or not is out of my authority and jurisdiction and  
11 capacity.

12 **MS. JONES:** All right. So if this report is  
13 to be written then by Monsignor McDougald, would it not  
14 make sense for the three of you to have another meeting to  
15 go over the draft and say, "Yeah, this is how I remember  
16 it. This is how I thought that he said this." And, you  
17 know, that sort of to-ing and fro-ing as would naturally  
18 happen on a committee.

19 Would that not have been a natural  
20 consequence of the preparation of this report?

21 **MR. LEDUC:** I'm not sure of the events  
22 following the termination of that meeting, except that when  
23 I left the meeting we had had a discussion on what we had  
24 received from Mr. Silmser. We had formulated some  
25 observations and I asked Monsignor McDougald to prepare

1 that in a report to the Bishop, for the Bishop to act on  
2 within the protocol and that was the limited function of  
3 the protocol and the end of my task, if you wish.

4 **MS. JONES:** Now, in reading over the details  
5 of what happened in that particular meeting and listening  
6 to what your evidence is here, there were recommendations  
7 then made to the Bishop or you had a plan of making  
8 recommendations to the Bishop?

9 **MR. LEDUC:** I don't recall specific  
10 recommendations. I think I would qualify them more as  
11 observations, transmitting what we had received from Mr.  
12 Silmsler to the Bishop with I think the comment that is  
13 there very clearly that we were not certain about Mr.  
14 Silmsler; either he was telling the truth or he was a very  
15 good actor, and that was what was to be transmitted.

16 **MS. JONES:** You'll agree with me that a  
17 recommendation that was not put forward to the Bishop was  
18 to remove Father Charlie from the parish?

19 **MR. LEDUC:** I don't know that.

20 **MS. JONES:** Was that discussed with you  
21 within the committee?

22 **MR. LEDUC:** I don't recall.

23 **MS. JONES:** Is it fair to say that there's  
24 no reference made in your statement or McDougald's or  
25 Vaillancourt's Will States that state that that was ever a

1 topic discussed?

2 MR. LEDUC: Well, if it's not there, yeah,  
3 you're right. Like, if it's not there, it's not there.

4 MS. JONES: Now, if I could please refer you  
5 to Bates page 2728.

6 THE COMMISSIONER: What exhibit?

7 MS. JONES: I'm sorry. I keep referring to  
8 Exhibit 1887, I apologise.

9 MR. LEDUC: Oh, 1887.

10 MS. JONES: I apologise about that. I'm  
11 going back to your statement.

12 MR. LEDUC: Could you situate me again  
13 please? Bates page?

14 MS. JONES: Yes, this is Bates page 2728,  
15 and I'm looking at the first paragraph, Madam Clerk.

16 MR. LEDUC: Thank you.

17 MS. JONES: And I just want to read for the  
18 record, again, coming from your statement:

19 "I do not believe that I made any  
20 recommendation except that they were to  
21 provide this report to the Bishop.  
22 None of us, including myself, thought  
23 of making any recommendation with  
24 respect to removing Father Charles from  
25 his position as a parish priest at St.



1 your decision-making on any recommendations you made to the  
2 Bishop.

3 **MR. SKURKA:** Yes, Mr. Commissioner, the line  
4 is struck out. So it's unfair then to assert that as his  
5 words.

6 **THE COMMISSIONER:** Right. Why did you -- I  
7 think we should go -- that was in -- well, first of all,  
8 you're saying it's Peter Annis who sent you this? How did  
9 he make this up? How did he come to redact -- prepare  
10 this?

11 **MR. LEDUC:** My recollection is that Peter  
12 came to Cornwall, and we had a meeting, and he would have  
13 taken notes as we were going through the chronology of our  
14 events.

15 **THE COMMISSIONER:** M'hm.

16 **MR. LEDUC:** And then he sent me this draft.

17 **THE COMMISSIONER:** M'hm.

18 **MR. LEDUC:** And there would have been some  
19 discussion between Peter and I as to what would have been  
20 put in the report, so that some of them are clearly, I  
21 think just grammatical or corrections. Others are  
22 rephrasing and yes, this is my writing, but I need to tell  
23 you that it was together with and following conversations  
24 with Mr. Annis.

25 **THE COMMISSIONER:** Okay.

1                   **MR. LEDUC:** So ---

2                   **THE COMMISSIONER:** Bottom line though is you  
3 took out, you struck out, "We were aware at the time that  
4 he would have had contact with children"?

5                   **MR. LEDUC:** Yes.

6                   **THE COMMISSIONER:** So were you aware that he  
7 was having contact with children at the time?

8                   **MR. LEDUC:** Well, if he was a parish priest,  
9 yes.

10                   **THE COMMISSIONER:** All right. And  
11                                   "...but I don't think any of us  
12                                   considered that at the time, even  
13                                   though it was in the policy."

14                                   So you recall at that time that there was  
15 policy and in that policy that if there were allegations at  
16 some point, there's some mechanism by which the priest is  
17 taken out of his daily functions, let's say.

18                   **MR. LEDUC:** I know that in -- in some  
19 protocols, that is very clearly spelled out.

20                   **THE COMMISSIONER:** Right.

21                   **MR. LEDUC:** I would have to look at this  
22 protocol to see ---

23                   **THE COMMISSIONER:** Right.

24                   **MR. LEDUC:** --- if it clearly spelled this  
25 out.

1                   **THE COMMISSIONER:** Okay.

2                   **MR. LEDUC:** And I don't recall, but  
3 certainly there was some issue. But to explain ---

4                   **THE COMMISSIONER:** Yes, yeah, we're getting  
5 there.

6                   **MR. LEDUC:** --- if you follow the set -- the  
7 sentence:

8                                 "Perhaps we were still uncertain  
9 whether to believe the complainant  
10 despite our sympathy, and Monsignor  
11 McDougald indicated that there appeared  
12 to be a certain vindictive streak in  
13 the complainant."

14                   So my recollection is that we had to balance  
15 the interests of the person accused with the interests of  
16 the person making a complaint.

17                   **THE COMMISSIONER:** Yes.

18                   **MR. LEDUC:** And you -- we've said that there  
19 was some ambiguity or ambivalence.

20                   **THE COMMISSIONER:** M'hm.

21                   **MR. LEDUC:** So that's the only explanation I  
22 can give for why this modification would have been made.

23                   **THE COMMISSIONER:** Okay, we're getting to it  
24 then.

25                   So what you are basically saying is that

1           what you struck out isn't struck out because it wasn't  
2           true. It was because in the context of that paragraph, it  
3           didn't flow given the fact that Monsignor McDougald had  
4           these doubts or whatever?

5                       **MR. LEDUC:** That's correct, Mr.  
6           Commissioner.

7                       **THE COMMISSIONER:** All right. Now, you can  
8           continue.

9                       **MS. JONES:** Thank you.

10                      The significance of that, now that we look  
11           at it again in hindsight I suppose, is that based on what  
12           you're saying there in that crossed out line, is that the  
13           fact that Father Charlie MacDonald was around children as a  
14           result of his job was not something that you even  
15           considered, though you were supposed to consider it because  
16           the protocol said you should.

17                      **MR. LEDUC:** Well, I'd have to look at that  
18           protocol to answer your question.

19                      **MS. JONES:** Which protocol is it you're  
20           referring to?

21                      **MR. LEDUC:** The one that was in place at  
22           that time.

23                      **THE COMMISSIONER:** So 1986; 1992, sorry.

24                      **MS. JONES:** So we'll look then at Exhibit  
25           58, I believe, Document 600257.



1                   **THE COMMISSIONER:** Exhibit 58. Which tab on  
2 Exhibit 58?

3                   **MS. JONES:** It's tab, oh, okay, 25. I've  
4 got Exhibit No. 58.

5                   **(SHORT PAUSE/COURTE PAUSE)**

6                   **MS. JONES:** So it's Tab 25 of Exhibit 58.  
7 Is that how that works?

8                   **THE COMMISSIONER:** Yes.

9                   **MS. JONES:** Okay. Now, just to get it --  
10 clarify what this document is. It seems to be Diocesan  
11 Guidelines on Sexual Abuse by Priests, Deacons,  
12 Seminarrians, and Pastoral Assistants. And my understanding  
13 is that it was drafted in 1992. So I believe this would  
14 have been the one in place at the time.

15                   **THE COMMISSIONER:** So where are we now? Mr.  
16 Sherriff-Scott is coming.

17                   **MR. SHERRIFF-SCOTT:** Just for the record,  
18 the best that can be said on the state of the evidence, as  
19 it exists right now, is that this document came into  
20 existence after February 22<sup>nd</sup>, 1991 in the minute which  
21 tasks Mr. Vaillancourt with drafting it and the May minute  
22 of 1992 where it is referred to as already being in  
23 existence.

24                   **THE COMMISSIONER:** M'hm.

25                   **MR. SHERRIFF-SCOTT:** So it's between those

1 two dates.

2 **MS. JONES:** Perhaps Mr. Sherriff-Scott can  
3 confirm that it wasn't actually formally adopted, however,  
4 until 1994. Is that ---

5 **MR. SHERRIFF-SCOTT:** I'm not confirming  
6 anything. You'll have to speak to the witness.

7 **THE COMMISSIONER:** Okay, so what's the  
8 question?

9 **MS. JONES:** Have you read the document yet,  
10 Mr. Leduc?

11 **MR. LEDUC:** I'm just reviewing it now.

12 **MS. JONES:** Okay.

13 **(SHORT PAUSE/COURTE PAUSE)**

14 **MR. LEDUC:** So you were asking me to look at  
15 this document understanding that this is the protocol what  
16 we -- I have been referring to as a protocol -- in place at  
17 the time that the ad -- what we called the ad hoc committee  
18 was set up?

19 **THE COMMISSIONER:** That's right.

20 **MS. JONES:** That's correct. Is this the  
21 protocol that was in place?

22 **MR. LEDUC:** I don't recall it accurately and  
23 that's why I'm asking the questions. So if that's the  
24 protocol, yes.

25 **MS. JONES:** Can I have one second?

1 (SHORT PAUSE/COURTE PAUSE)

2 MS. JONES: Let's just see if I can confirm  
3 it another way for you.

4 (SHORT PAUSE/COURTE PAUSE)

5 MS. JONES: If we could go to Exhibit 58,  
6 please?

7 THE COMMISSIONER: Yes, we're there. What  
8 tab?

9 MS. JONES: Twenty-five (25) I believe.

10 THE COMMISSIONER: Well -- okay, that's the  
11 document now.

12 MS. JONES: I'm looking -- I have it, I'm  
13 sorry, I'm now looking at mine. I have it as X-Tab 28.  
14 Sorry, Exhibit 58, Tab 28. That's it.

15 Jumping ahead a little bit in chronology,  
16 but I think to confirm this point I'm going to have to do  
17 that. So the item that I referred to you here, which is  
18 Tab 28, this is a media release by the Diocese in Cornwall  
19 dated January 7<sup>th</sup>, 1994 and Bishop Larocque has signed the  
20 bottom, it would appear, and the very first paragraph, it  
21 said:

22 "in view of recent media allegations of  
23 sexual aggression on the part of a  
24 member of the clergy, the Diocese of  
25 Alexandria-Cornwall let it be known

1                   that the Diocese has acted in  
2                   accordance with the guidelines accepted  
3                   and promulgated for the immediate and  
4                   serious attention demanded by such  
5                   complaint; copy enclosed."

6                   And then Bates pages 7806 through to 7809  
7                   appear to be the protocol that I just put to you in the  
8                   previous exhibit. Can we substantiate that?

9                   **THE COMMISSIONER:** Okay, so ---

10                  **MS. JONES:** Is that something that you can -  
11                  --

12                  **THE COMMISSIONER:** Okay. First of all,  
13                  we've got this. We know that in 1994 this protocol has  
14                  been proclaimed and sent out to the media.

15                  Okay. So now we're covering an area of when  
16                  this interview took place, so is it fair -- does anyone  
17                  have any strong objections to noting that the protocol,  
18                  we'll call it, found in Exhibit 58, Tab 28, was in  
19                  existence at the time that this gentleman did his  
20                  interview?

21                  Do you have any problems with that, sir?

22                  **MR. LEDUC:** No, I don't have any problems,  
23                  but I still have behind my mind that it -- I don't recall  
24                  it being a three-page document, but I could be wrong.

25                  But clearly when I look at the -- Phase

1 Four, the meeting of the advisory committee, it -- I'm more  
2 comfortable having read that in understanding that, yes,  
3 this was the protocol under which we were functioning.

4 **THE COMMISSIONER:** Mr. Sherriff-Scott?

5 **MR. SHERRIFF-SCOTT:** My problem with  
6 confirming dates is I'm not even sure the witnesses know,  
7 so I can't come up here and confirm dates. What I can say  
8 is that the document that is attached to this letter was at  
9 least a draft in play and was probably being used in or  
10 around these years.

11 **THE COMMISSIONER:** Perfect.

12 **MR. SHERRIFF-SCOTT:** Okay?

13 **THE COMMISSIONER:** Thank you.

14 So until somebody tells me to the contrary  
15 I'm going on that basis.

16 **MS. JONES:** Thank you.

17 So the question -- if you remember the  
18 question, if I remember the question -- actually had to do  
19 with that line that was crossed out by you saying that:

20 "I don't think any of us considered  
21 that at the time even though it was in  
22 the policy."

23 So a way of interpreting your sentence is  
24 that it would appear in the protocol that consideration of  
25 children's safety is required under the protocol. Would

1       you agree with that?

2                   **MR. LEDUC:** I would agree that that -- that  
3       reference was a reference to the policy in place, yes.

4                   **MS. JONES:** No, my question is, would you  
5       agree that the protocol that we're referring to now does in  
6       fact consider child safety to be an issue to be considered  
7       by the ad hoc committee when making such investigations  
8       into the allegations?

9                   **(SHORT PAUSE/COURTE PAUSE)**

10                  **MS. HEINEIN:** Perhaps my friend could just  
11       identify what provision of the protocol she wishes to  
12       direct the witness's attention to?

13                  **THE COMMISSIONER:** M'hm.

14                  **MS. HEINEIN:** Does friend direct the witness  
15       to the provision of the protocol ---

16                  **THE COMMISSIONER:** Yes.

17                  **MS. HEINEIN:** --- she's referring to?

18                  **THE COMMISSIONER:** Yes.

19                  **MS. HEINEIN:** Thanks.

20                  **MS. JONES:** I'm just waiting for Mr. Leduc  
21       to put his head up so that I can ---

22                  **MR. LEDUC:** Sorry.

23                  **MS. JONES:** --- because he was reading and I  
24       didn't want to interrupt the witness.

25                  **MR. LEDUC:** Sorry.

1                   **MS. JONES:** No, no, that's fine. I have no  
2                   problem with it.

3                   It would appear from the protocol that on  
4                   page 7697 ---

5                   **THE COMMISSIONER:** That doesn't work for us.

6                   **MS. JONES:** And this is the ---

7                   **THE COMMISSIONER:** What ---

8                   **MS. JONES:** I'm very sorry about this. The  
9                   second page of the protocol.

10                  **THE COMMISSIONER:** Yes.

11                  **UNIDENTIFIED MALE SPEAKER:** Sorry, we don't  
12                  have 28 or Tab 25 sorry, of the exhibit.

13                  **MS. JONES:** I'm on Tab 25.

14                  **THE COMMISSIONER:** Okay.

15                  **MS. JONES:** It would appear that there are  
16                  certain requirements or obligations for the committee and  
17                  one of them would certainly be under Phase Four, which  
18                  Notification of CAS, that if that is appropriate to follow  
19                  those sorts of guidelines, if it's appropriate. And ---

20                  **MR. LEDUC:** Sorry -- I'm sorry ---

21                  **MS. JONES:** --- and therefore there have --  
22                  one would imply from that certainly, in that directive in  
23                  any event, that there would necessarily need to be some  
24                  discussion, perhaps if CAS needs to be contacted. In other  
25                  words, are there children at risk?

1                   **MR. LEDUC:** Well, I would point out to you  
2                   that that is not the committee's obligation. The  
3                   committee's obligations are set out in Phase Four.

4                   The other obligations either refer to how a  
5                   complaint is received and what the designate -- sorry --  
6                   what the person designated by the Bishop must do, and there  
7                   you have various references to other obligations. But the  
8                   committee under Phase 4 is very focused and it is to assess  
9                   the value of the reasonable motive and provide a report to  
10                  the Bishop.

11                  The rest of it is protocol of the Diocese  
12                  but assigned to other individuals.

13                  **THE COMMISSIONER:** So who ---

14                  **MR. LEDUC:** And I was not involved with any  
15                  of that.

16                  **THE COMMISSIONER:** So do you know who the  
17                  person designated by the Bishop would have been in these  
18                  circumstances?

19                  **MR. LEDUC:** I don't know that. All I can  
20                  tell you is that Monsignor Bernie McDougald was the Chair  
21                  of the meeting of the Advisory Committee.

22                  **MS. JONES:** So in reading the protocol the  
23                  way I had read was that the designated person is the same  
24                  in Phase 4 as Phase 5. Am I incorrect on that?

25                  **MR. LEDUC:** I think so because we had -- I



1 had nothing to do with the other issues. We received the  
2 complainant to obtain, you know, basically the information  
3 that was necessary and that's why I wanted to see the  
4 protocol.

5 **MS. JONES:** So the way that I have read this  
6 protocol though it says in Phase 4, what you say is the  
7 Advisory Committee, the designated person convenes a  
8 meeting as soon as possible and then Phase 5 it says the  
9 designated person notifies the CAS. It reads as if it's  
10 the same person.

11 **MR. LEDUC:** Well, the designated person?

12 **MS. JONES:** Yes.

13 **MR. LEDUC:** Yes, I would think the  
14 designated person should be the same one, or it should --  
15 could be the same one.

16 **MS. JONES:** Right. So that was the reading  
17 that I had to that.

18 **MR. LEDUC:** Yes.

19 **MS. JONES:** So if Monsignor McDougald was  
20 the designated person for Phase 4 in your committee, it  
21 would naturally follow presumably that Monsignor McDougald  
22 would probably be best placed to be the designated person  
23 for Phase 5.

24 **MR. LEDUC:** I don't know that.

25 **MS. JONES:** Regardless of who the designated

1 person is for Phase 5, in order to notify CAS, would there  
2 not need to be some discussion or some recommendation from  
3 the committee to say if that's appropriate or not?

4 **MR. LEDUC:** No. The committee has to assess  
5 the value of the reasonable motive. That, as you now know,  
6 was our struggle.

7 **MS. JONES:** So I'll look to you then for you  
8 to clarify because I had understood from your words that it  
9 was in the policy to consider children according to the  
10 line that was crossed out here.

11 **MR. LEDUC:** And that's why I wanted to refer  
12 to the policy to refresh my memory, and if reference to the  
13 CAS is a reference to being concerned about children, then  
14 yes, the policy which is the protocol does make reference  
15 to what steps are to be taken.

16 **MR. SKURKA:** In fairness, Mr. Commissioner,  
17 I believe his evidence was that there were various  
18 protocols in different areas and he wasn't sure if that  
19 protocol applied in his area. That's what his evidence  
20 was, as opposed to categorically being a uniformed protocol  
21 that would apply to the protection of children.

22 **MS. JONES:** If I'm just going -- and this is  
23 going to be my last clarification on that because I frankly  
24 still don't understand. In that line that was crossed out,  
25 was it your mindset at the time when you were sitting on

1 the committee that when you were meeting with Mr. Silmsner  
2 that -- and then discussing afterwards, in your mind, was  
3 it part of your mandate or policy to consider safety of  
4 children?

5 **MR. LEDUC:** No.

6 **(SHORT PAUSE/COURTE PAUSE)**

7 **MS. JONES:** Now, we established earlier that  
8 there was no recommendation or thought really hadn't been  
9 put to making a recommendation to remove Father Charles  
10 from his position.

11 Was there any discussion about possibly  
12 suspending Father Charles pending an investigation, not  
13 removing him specifically but suspending?

14 **MR. LEDUC:** That wasn't part of the mandate  
15 of the committee.

16 **MS. JONES:** If you put on your other hat as  
17 a lawyer for the Diocese, would you advise your client, Mr.  
18 Larocque, Bishop Larocque, perhaps about how to conduct  
19 himself or decisions that may be sound for the Diocese if  
20 you're involved in this matter? Is that part of your duty,  
21 shall we say, as a lawyer involved in this particular  
22 matter at that time?

23 **MR. SKURKA:** Yes. With respect, Mr.  
24 Commissioner, the evidence from Mr. Leduc is that he only  
25 wore one hat and that was the lawyer to the committee. It

1           wasn't a matter of putting on two hats. It was just one  
2           hat.

3                         **THE COMMISSIONER:** What was the second hat  
4           you're saying?

5                         **MR. SKURKA:** No, I'm saying there was no  
6           second hat. My friend said if you could put on your other  
7           hat and it's an important point. It's not just simply  
8           semantics. The point I'm making is that Mr. Leduc's  
9           evidence to this Commission is that when he was on this  
10          Advisory Committee, he was there as a lawyer.

11                        **THE COMMISSIONER:** Yes.

12                        **MS. JONES:** So is that your answer then that  
13          the lawyer has provided for you, that there wasn't a second  
14          hat?

15                        **MR. LEDUC:** I was ---

16                        **MS. JONES:** Do you want me to clarify?

17                        **MR. LEDUC:** No. I -- my answer is I acted  
18          for a client who asked me to sit on this committee.

19                        **THE COMMISSIONER:** Okay. So what you're  
20          saying then is you're taking a narrow view of what your  
21          client's instructions were; that's it. You're not looking  
22          at the wholesome -- so for example, for example, let's put  
23          it this way.

24                                 In the first paragraph, it says:

25   "The person designated by the Bishop

1                                   meets and verifies if a minor under 16  
2                                   was involved at the time of the  
3                                   abuses."

4                                   Did you determine during your interview with  
5                                   Mr. Silmsen that some of the events had occurred before or  
6                                   after he was 16 years of age?

7                                   **MR. LEDUC:** I don't recall except the fact  
8                                   that he said that he was altar boy. So I think we would  
9                                   have known that his allegation referred to a time where he  
10                                   was a young person, a very young person.

11                                   **THE COMMISSIONER:** So under 16 presumably?

12                                   **MR. LEDUC:** Presumably.

13                                   **THE COMMISSIONER:** All right.

14                                   So the guidelines say that if that happens,  
15                                   that there's an obligation to notify the CAS; right? So  
16                                   are you telling me -- did you consider that?

17                                   **MR. LEDUC:** Mr. Commissioner, the view of my  
18                                   services as legal counsel is that I receive instructions  
19                                   and I do what I'm instructed to do. I do not have an  
20                                   obligation to look at all of the rules and regulations  
21                                   which govern the conduct of my client and ensure that that  
22                                   client follows the rules and regulations which govern that  
23                                   particular body.

24                                   That is not my role or I don't perceive my  
25                                   role as being an all-encompassing general counsel to a

1 particular corporate body which is the Diocese. My role  
2 was very specific in each instance.

3 **THE COMMISSIONER:** So I know there's no  
4 obligation. If there's someone on the road with their head  
5 in the water of two inches, there's no obligation to save  
6 them but with respect to your own client who is paying you,  
7 you wouldn't go and see the Bishop and say, "Listen,  
8 Monseigneur Larocque, you know, he's under 16. Have you  
9 guys considered talking to the CAS because you might have a  
10 legal obligation?"

11 You don't see your role -- you wouldn't do  
12 that?

13 **MR. LEDUC:** Well, what I -- it's more -- I  
14 think more direct than that. I advised the committee and  
15 the Bishop to follow the protocol and if the protocol calls  
16 for such conduct, they had to follow it. That was -- that  
17 was the advice.

18 **THE COMMISSIONER:** Okay.

19 **MS. JONES:** Just a moment, please.

20 Did you ever speak to Monsignor Schonenbach  
21 as part of your committee inquiry?

22 **MR. LEDUC:** No. No.

23 **MS. JONES:** Do you think that it might have  
24 assisted your committee in coming up with your report or  
25 the report that was supposed to have been written? You may

1 recall it is Monsignor Schonenbach that had the initial  
2 contact with Mr. Silmser and had actually found him to be  
3 credible.

4 **MR. LEDUC:** My understanding is the  
5 committee was to meet with the complainant. That was the  
6 thrust of our existence, of the existence of this  
7 committee. So in hindsight would it have been a good thing  
8 to meet Monsignor Schonenbach? I don't think it would have  
9 done any harm. It may have helped us in our assessment but  
10 I don't know whether he met Mr. Silmser or not. I don't  
11 recall.

12 I know there was a letter and the letter  
13 referred to some issue that he seemed to be credible and I  
14 recall from reading it now but ---

15 **MS. JONES:** Did you want to go back to that?

16 **MR. LEDUC:** No, I recall it.

17 **MS. JONES:** At the very least, was there any  
18 consideration given to the letter that Monsignor  
19 Schonenbach had written and specifically the assertion that  
20 he had found Mr. Silmser to be credible.

21 **MR. LEDUC:** I don't remember, but I -- I  
22 don't remember seeing the letter and at what time, but if  
23 we had it, we would have given it due consideration  
24 certainly.

25 **MS. JONES:** It doesn't appear here, in your

1 notes or this statement I should say that there was any  
2 consideration given to it.

3 **MR. LEDUC:** That's why I can't help you.

4 **MS. JONES:** Okay. Now, still on the Exhibit  
5 1887, I'm going back to the page that we left. It was  
6 Bates page 2728, and I'm looking at the second last  
7 paragraph. It starts off with "Malcolm MacDonald..."

8 And it states there, and I'll read it in for  
9 the record:

10 "Malcolm MacDonald also told me..."

11 And just for the record too to keep it  
12 clear, we are still talking about February 9<sup>th</sup>, 1993.

13 **MR. LEDUC:** I'm sorry. I don't follow you.  
14 Still 2728, Bates page?

15 **MS. JONES:** Correct.

16 **MR. LEDUC:** And which paragraph?

17 **MS. JONES:** The third paragraph or the one  
18 that's showing there ---

19 **MR. LEDUC:** Yes, I'm sorry, yes. I have it  
20 now.

21 **MS. JONES:** Okay. And just to set it up, we  
22 are still talking about February 9<sup>th</sup>, 1993, we're at the day  
23 of the meeting. You now had contacted Malcolm MacDonald  
24 and you say in your statement that it was the first time  
25 you had made contact with him. So this is the substance of



1           that conversation that you had with Mr. MacDonald.

2                               "Malcolm MacDonald also told me that  
3                               the police were following up two leads  
4                               that had been provided by the  
5                               complainant. However, the statements  
6                               obtained from these persons, one of  
7                               whom was a detective, were both glowing  
8                               appraisals of Father Charles and  
9                               denying any allegations of past  
10                              problems in their dealings with him. I  
11                              received copies of these letters from  
12                              Malcolm MacDonald and forwarded them to  
13                              the Diocese. Malcolm MacDonald did not  
14                              advise me of any other complaints that  
15                              had been made against Father Charles."

16                            Do you recall that?

17                            **MR. LEDUC:** Yes.

18                            **MS. JONES:** Okay. Now, would you agree that  
19                            if you're searching at this point, which it would seem that  
20                            you are, to see if there are other complainants out there,  
21                            that an unlikely source of such a complainant would not  
22                            come from the defence lawyer of the alleged perpetrator?

23                            **MR. LEDUC:** Why would you say we were  
24                            searching for other complainants?

25                            **MS. JONES:** No. If at this particular

1 point, you're discussing with Mr. MacDonald the possibility  
2 of there being other complainants.

3 **MR. LEDUC:** That's not what it says. It  
4 says, he did not advise me of other complaints.

5 **MS. JONES:** If you look at the first  
6 sentence, it says:

7 "Malcolm MacDonald also told me that  
8 police were following two leads that  
9 have been provided by the complainant."

10 And then the last sentence:

11 "Malcolm MacDonald did not advise me of  
12 any other complaints that had been made  
13 against Father Charles."

14 So ---

15 **MR. LEDUC:** But the second sentence explains  
16 what the leads were.

17 **MS. JONES:** Correct.

18 **MR. LEDUC:** "However, the statements  
19 obtained from these persons, one of  
20 whom was a detective, were glowing  
21 appraisals."

22 **MS. JONES:** Okay. Were you, at that point,  
23 putting your mind to finding out if there were other  
24 complainants?

25 **MR. LEDUC:** No.

1                   **MS. JONES:** Had that been something that you  
2 or the committee had discussed at any point?

3                   **MR. LEDUC:** I don't recall if that was a  
4 discussion. I don't recall the discussion if it existed.

5                   **MS. JONES:** Would you agree with me that if  
6 you were discussing such a thing that the source of finding  
7 other complainants would likely not be Malcolm MacDonald,  
8 as he's representing the alleged perpetrator?

9                   **MR. LEDUC:** Yes.

10                  **MS. JONES:** Okay. The question that also  
11 predicates all of this too is the reason why you were  
12 calling Malcolm MacDonald in the first place. What was the  
13 reason behind that?

14                  **MR. LEDUC:** I did not call Malcolm  
15 MacDonald.

16                  **MS. JONES:** I'm sorry, then my mistake. It  
17 says:

18                                 "Sometime after the initial meeting  
19                                 with the complainant, I had my first  
20                                 contact with Malcolm MacDonald on this  
21                                 subject."

22                  **MR. LEDUC:** He called me.

23                  **MS. JONES:** He called you?

24                  **MR. LEDUC:** Yes.

25                  **MS. JONES:** Okay. Now, let's go to the next

1 date then, which is still on the same Bates page 2728 and  
2 the paragraph following. I'll read it for the record.

3 "The Diocese was not negotiating with  
4 the complainant in the month of  
5 February and a statement in the  
6 newspaper from the police at a later  
7 time, that on February 16<sup>th</sup> the  
8 complainant told them that he was  
9 negotiating a settlement with Church  
10 officials was incorrect. If there were  
11 any negotiations going on, they must  
12 have been with Malcolm MacDonald. I  
13 was certainly never involved directly  
14 with the complainant in negotiations."

15 Now, you've worded -- it would appear you've  
16 added that last line on, and you want to be very clear  
17 about your lack of involvement in any negotiations in  
18 February.

19 **MR. LEDUC:** No, I want to be clear that I  
20 had no contact with Mr. Silmsler other than my meeting in  
21 February and one telephone conversation.

22 **MS. JONES:** So you were not saying that you  
23 weren't involved in the negotiations in February. You said  
24 you weren't involved with the complainant in the  
25 negotiations in February? Just -- if you could clarify it

1 for me. I'm not certain then what you're saying there.

2 MR. LEDUC: I do not recall being involved  
3 in any negotiations in February.

4 THE COMMISSIONER: February of?

5 MR. LEDUC: Ninety-three ('93).

6 THE COMMISSIONER: Ninety-three ('93).

7 MS. JONES: Okay.

8 MR. LEDUC: And to be fair, this comment was  
9 made in response to an article in some newspaper, I  
10 believe, where there was an allegation that there were  
11 negotiations, and this is the reason for my statement to  
12 Mr. Annis.

13 MS. JONES: If I could please refer you to  
14 Exhibit 0863.

15 THE COMMISSIONER: So 863?

16 MS. JONES: Yes, please.

17 THE COMMISSIONER: We have it. So that's  
18 the Statement of Malcolm MacDonald?

19 MS. JONES: Malcolm MacDonald.

20 THE COMMISSIONER: You should have that  
21 book, sir. Well, maybe not. Does he have it? Yes.

22 So if you look in the binders on the back of  
23 it, it'll tell you which -- so 863.

24 MR. LEDUC: Yes, thank you.

25 MS. JONES: I just need you to attach a

1           timeframe if possible to this, please.

2                           Again, this is the statement of Malcolm  
3           MacDonald that he provided to the OPP in October 1994 and  
4           again, he's -- this is his perspective of his contact with  
5           you around that time period. So I am going to be looking  
6           for your comments on that.

7                           I have already read into the record that:

8   "Jacques Leduc reported back to me as  
9   to what happened and basically what he  
10    said..."

11                           And at Bates page 5937, the passage that I  
12           read into the record previously at the bottom:

13    "Jacques Leduc reported back to me as  
14    to what happened and basically what he  
15    said he wouldn't come through with any  
16    details or any -- that was just said  
17    that there was a complaint made some  
18    summer, some you know period, and he  
19    wanted to try to pinpoint him as to  
20    well, what did he do. Did he touch you  
21    here? Did he do this? And he wouldn't  
22    do this, he wouldn't say anything. He  
23    advised me that he thought Silmser  
24    would be a convincing witness, but he  
25    also thought that he was probably a bit

1 of a conman looking for money."

2 Do you recall saying words to that effect to  
3 Mr. MacDonald ---

4 **MR. LEDUC:** No.

5 **MS. JONES:** --- in that conversation?

6 **MR. LEDUC:** No.

7 **MS. JONES:** The next line that Mr. MacDonald  
8 states is:

9 "So we decided to go with that. And  
10 then, later on, the question of money  
11 arose again and I was asked to call  
12 because he didn't know me, I never  
13 heard of the man before and never  
14 talked to him before, but he didn't  
15 like Leduc because the questions he  
16 asked apparently and he didn't like  
17 McDougald because he wouldn't give him  
18 an answer, I guess. We're going to  
19 give you money or wouldn't give you  
20 money so..."

21 Looks a bit vague that last little part  
22 there, but going back to "...we decided to go with that", was  
23 there some discussion between yourself and Mr. MacDonald --  
24 I mean Malcolm MacDonald?

25 **MR. LEDUC:** The only discussions I've had

1 with Malcolm MacDonald in relation to the Silmser's  
2 settlement were in August of '93 when he called my office.

3 **MS. JONES:** So if I continue with Mr.  
4 Malcolm MacDonald's statement, the officer says:

5 "May I interrupt at this point? You  
6 said you were asked -- who asked you,  
7 Mr. MacDonald?

8 Mr. MacDonald says:

9 "Oh, to contact Silmser?"

10 And the answer is:

11 "I believe it was. I believe it was  
12 Monsignor McDougald to find out just  
13 what he meant by, you know, an apology  
14 for starts and what else did he want."

15 Then he goes on to say:

16 "I'm also certain it was Monsignor  
17 McDougald. Somebody, anyway, asked if  
18 it was done so I phoned him and he was  
19 very polite to me and I explained what  
20 I -- my position was; I was acting for  
21 Father Charles and that I was asked by  
22 the Diocese. Well, I guess the Diocese  
23 would be better to say."

24 So he's claiming he was asked by the  
25 Diocese. Was that by you by any chance?



1                   MR. LEDUC: No.

2                               (SHORT PAUSE/COURTE PAUSE)

3                   MS. JONES: So then if we turn over -- if we  
4 return to Exhibit 1887 and we go to the next page which is  
5 Bates page 2729 -- are you at that page, sir?

6                   MR. LEDUC: Yes, page 5.

7                   MS. JONES: Okay.

8                               Further to what you just said a moment ago,  
9 March to August 1993 is basically the next heading and you  
10 state in the very first paragraph:

11                                       "After our meeting with the complainant  
12                                       and my contact with Malcolm MacDonald,  
13                                       little else happened with respect to  
14                                       this matter until August 1993."

15                               And there is some mention of contact between  
16 Mr. Silmsler and Monsignor McDougald and then further down  
17 it says also too "I was not asked for advice on the matter  
18 and gave none" so you were not certainly retained, at that  
19 point, to give any advice. But the next paragraph starting  
20 with "During the course of the summer" states:

21                                       "During the course of the summer and,  
22                                       at least, prior to the second meeting  
23                                       with Mr. MacDonald and the Bishop, I  
24                                       learned from Monsignor McDougald that  
25                                       there had been previous complaints made

1                                    against Father Charles of a homosexual  
2                                    advance made by him. This was the  
3                                    first time I had any knowledge of other  
4                                    complaints being made against Father  
5                                    Charles."

6                                    So is that an accurate reflection of what  
7                                    happened at that ---

8                                    **MR. LEDUC:** It's my recollection ---

9                                    **MS. JONES:** --- particular period of time?

10                                   **MR. LEDUC:** --- at that time, yes.

11                                   **MS. JONES:** Okay.

12                                    So the next entry then I want to go to is in  
13                                    August and I wonder if you could just explain -- you're  
14                                    retained, obviously, to continue acting for the Diocese in  
15                                    some fashion; what was the understanding of your retainer  
16                                    now in August of 1993?

17                                    **MR. LEDUC:** My recollection is that I  
18                                    received a call from Malcolm MacDonald when he stated that  
19                                    he wanted to meet with the Bishop to discuss the matter of  
20                                    David Silmser -- and I'm not sure if he talked about an  
21                                    offer of settlement at that time -- and would I inquire  
22                                    with the Bishop's office whether or not he would agree to  
23                                    such a meeting. And when I did inquire with the Bishop and  
24                                    he agreed to it, that's when I was retained.

25                                    **MS. JONES:** And what was your understanding

1 of the retainer?

2 **MR. LEDUC:** To act on behalf of the Diocese  
3 in relation to the Silmsler matter.

4 **MS. JONES:** Can you be more specific? The  
5 Silmsler matter; what do you mean by that, the settlement?

6 **MR. LEDUC:** Well, at -- at that point in  
7 time, Malcolm MacDonald was indicating that he had had, I  
8 think, some communication. He had some communication with  
9 Silmsler and that he wanted to discuss Silmsler's claim and  
10 so I was retained to represent the Diocese in relation to  
11 this potential claim.

12 **MS. JONES:** And what was your understanding  
13 with regards to instructions from your client with the type  
14 of position that they wanted to take? Did you have a clear  
15 understanding of it at that point or did that come later?

16 **MR. LEDUC:** Well, my understanding was to  
17 receive information from Malcolm, meet with the Bishop and  
18 give the Bishop advice.

19 **MS. JONES:** Was it to directly help with  
20 negotiating a settlement?

21 **MR. LEDUC:** No ---

22 **MS. JONES:** Of some sort?

23 **MR. LEDUC:** No, because initially, as you  
24 know, the Bishop did not want to enter into a settlement  
25 agreement.

1                   **MS. JONES:** Okay. Was it to resolve the  
2 matter somehow?

3                   **MR. LEDUC:** I had no such instructions.

4                   **MS. JONES:** So at this particular point  
5 you're just set up to meet with the other lawyer  
6 representing Father Charlie MacDonald?

7                   **MR. LEDUC:** With the Bishop.

8                   **MS. JONES:** With the Bishop?

9                   **MR. LEDUC:** Yes.

10                   **MS. JONES:** And that happened on August 25<sup>th</sup>.  
11 And it states in your first sentence there on Bates page  
12 2730 that:

13                                   "Malcolm MacDonald and myself met with  
14                                   the Bishop to discuss the possibility  
15                                   of a settlement. Gordon Bryan may also  
16                                   have been in attendance. He was  
17                                   present at one or two of the meetings."

18                   Do you see that there?

19                   **MR. LEDUC:** Yes.

20                   **MS. JONES:** Okay. And following down then,  
21 in the third paragraph -- or the first paragraph -- the  
22 first sentence of the second paragraph, I should say:

23                                   "The Bishop refused to consider any  
24                                   settlement of the matter."

25                   When I see settlement, I think in this

1 context you mean monetary settlement?

2 **MR. LEDUC:** Yes.

3 **MS. JONES:** And in the third paragraph:

4 "We discussed the fact that the  
5 complainant, by settling, would be  
6 abandoning his right to sue the Diocese  
7 and he would also give an undertaking  
8 not to disclose the settlement. I do  
9 not believe the issue of resolution of  
10 the criminal claim came up at this  
11 meeting, but I know the Bishop was  
12 concerned that the payment would be  
13 seen as hush money and intended to stop  
14 the criminal proceedings."

15 So certainly, at that particular point of  
16 time, it would appear that you're aware there are either  
17 parallel criminal proceedings or investigations going on  
18 with regards to this matter?

19 **MR. LEDUC:** Yes.

20 **(SHORT PAUSE/COURTE PAUSE)**

21 **MS. JONES:** And continuing on:

22 "I told him in the presence of Malcolm  
23 MacDonald that this would not affect  
24 the complainant's right to pursue the  
25 criminal matter. However, it wasn't

1                   flagged that by paying the same, the  
2                   complainant might choose not to proceed  
3                   with a criminal action and, no doubt,  
4                   this was my hope. It was made clear to  
5                   me that the settlement would not affect  
6                   the complainant's decision... ---

7                   **UNIDENTIFIED SPEAKER:** (Off microphone)

8                   **MS. JONES:** Pardon me?

9                   **UNIDENTIFIED SPEAKER:** (Off microphone)

10                  **MS. JONES:** Oh, I'm sorry.

11                    "It was made clear by me that the  
12                   settlement would not affect the  
13                   complainant's decision to proceed  
14                   criminally..."

15                  Just a moment, please.

16                    "...as there was nothing that could be  
17                   done to impede a criminal complaint.  
18                   In addition, Malcolm assured us that  
19                   the Crown attorney and police were  
20                   informed of the proposed settlement."

21                  Now, the last bit from the

22                    "...as there was nothing to be done to  
23                   impede a criminal complaint. In  
24                   addition, Malcolm assured us that the  
25                   Crown attorney and police were informed

1                                   of the proposed settlement.”  
2           those were, obviously, very key words and again, what’s in  
3           your state of mind at that time?

4                           **MR. LEDUC:** Sorry, but I can’t recall what  
5           my state of mind was except that we added precision or  
6           other information to the text.

7                           **MS. JONES:** It goes further.

8                                   “The Bishop was adamant against  
9                                   settling. He was concerned about being  
10                                  seen as covering up and felt that the  
11                                  truth should come out in the criminal  
12                                  proceedings, if that was the case. At  
13                                  the end of the meeting he told us that  
14                                  the Diocese would not participate in  
15                                  any settlement.

16                                 I left the meeting feeling very angry.  
17                                 I thought from my experience in these  
18                                 matters the settlement represented a  
19                                 good opportunity to resolve a messy  
20                                 situation, to protect the reputation of  
21                                 the priest, which would be destroyed by  
22                                 any legal proceedings regardless of his  
23                                 innocence, and to avoid incurring  
24                                 unnecessary costs in defending the  
25                                 civil suit.”

1                   Now the next line, which is deleted. I'm  
2           just going to read out:

3                   "I also thought it would likely resolve  
4                   the criminal proceedings."

5                   But that actually was crossed out.

6                   Did you in fact say that during your  
7           interview with Mr. Annis?

8                   **MR. LEDUC:** I don't recall what I said to  
9           Mr. Annis in my interview.

10                  **MS. JONES:** Pardon me?

11                  **MR. LEDUC:** I don't recall what I would have  
12           said to Mr. Annis specifically in my interview.

13                  **MS. JONES:** Is it possible that you did say  
14           that?

15                  **MR. LEDUC:** Yes. Because when you deal with  
16           such matters it is in your client's best interest to have  
17           all matters resolved at once, if that is possible.

18                  **MS. JONES:** So, you were hopeful at that  
19           time that if there was a civil monetary settlement, which  
20           you were very much in favour of, that it could have the net  
21           effect resolving the criminal matter.

22                  **MR. LEDUC:** Well, let me answer two things.

23                               First of all, the fact that I was in favour  
24           of it was more the fact that I was advising for that -- I  
25           was advocating that position as Diocesan counsel.



1                   The second part is that when you propose  
2                   this kind of settlement, I mean I think it would be very  
3                   naïve to say that a monetary settlement, in this instance,  
4                   considering the circumstances at the time, that I wouldn't  
5                   hope that it would resolve all matters, including criminal  
6                   issues and at this time there were no charges.

7                   So that was my hope, yes.

8                   **MS. JONES:** I'm wondering if this is a good  
9                   time to ---

10                  **THE COMMISSIONER:** Yes. Thank you.

11                  Let's have the lunch break. Thank you.

12                  **THE REGISTRAR:** Order; all rise. À l'ordre;  
13                  veuillez vous lever.

14                  This hearing will resume at 2:00 p.m.

15                  --- Upon recessing at 12:30 p.m.

16                  L'audience est suspendue à 12h30

17                  --- Upon resuming at 2:06 p.m./

18                  L'audience est reprise à 2h06

19                  **THE REGISTRAR:** Order; all rise. À  
20                  l'ordre; veuillez vous lever.

21                  **THE REGISTRAR:** This hearing is now resumed.  
22                  Please be seated. Veuillez vous asseoir.

23                  **JACQUES LEDUC, Resumed/Sous le même serment**

24                  --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE BY MS. JONES**  
25                  **(Continued/suite):**

1                   **MS. JONES:** Good afternoon Mr. Leduc.

2                   **MR. LEDUC:** Good afternoon.

3                   **MS. JONES:** Just to get us back on track  
4 here. I was referring to Exhibit 1887, which is your  
5 statement and we were looking at Bates pages 2730.

6                   **MR. LEDUC:** Yes.

7                   **MS. JONES:** The -- on August 25<sup>th</sup>. That's  
8 the date that we were at before we left for the -- before  
9 the break for lunch.

10                               Now, it would appear that, according to your  
11 evidence, there was some activity obviously in February.  
12 You were not retained or instructed to do anything between  
13 March and August '93.

14                   **MR. LEDUC:** That's my recollection.

15                   **MS. JONES:** And then August 25<sup>th</sup> it starts up  
16 again.

17                   **MR. LEDUC:** That's the date of the first  
18 meeting, yes.

19                   **MS. JONES:** Okay.

20                               Just going back to the information that you  
21 received between March and August 1993, that according to  
22 your statement here is when you learned from Monsignor  
23 McDougald about previous complaints against Father Charles.  
24 Did you at that point make the Bishop aware of this?

25                   **MR. LEDUC:** I had had no discussions with

1 the Bishop at that point in time.

2 MS. JONES: Does that mean no?

3 MR. LEDUC: No.

4 MS. JONES: Okay.

5 MR. LEDUC: Sorry.

6 MS. JONES: So, then we find that we are at  
7 August 25<sup>th</sup> and the meeting that you have here, according to  
8 your notes, is yourself, Malcolm MacDonald, and the Bishop.

9 MR. LEDUC: And possibly Gordon Bryan but  
10 I'm not certain of that.

11 MS. JONES: Okay. M'hm. But at this  
12 particular point, certainly, it would appear from your own  
13 statement that Monsignor McDougald does not now come to  
14 these meetings that you are having with the Bishop?

15 MR. LEDUC: He was not present at that  
16 meeting, no. Not that I recall.

17 MS. JONES: And would it be fair to say  
18 then, basically from August 25<sup>th</sup> onwards the meetings that  
19 you have with the Bishop seem to be, according to your  
20 statement, and it is consistent with Mr. MacDonald's  
21 statement too, that it seems to be yourself, Malcolm  
22 MacDonald, and the Bishop that have I believe there is  
23 three meetings in total to discuss the settlement.

24 MR. LEDUC: I believe there are two that I  
25 remember with the Bishop and possibly Gordon Bryan, and Mr.

1 MacDonalld. Two that I remember.

2 MS. JONES: But certainly not Monsignor  
3 McDougald at this point?

4 MR. LEDUC: Not that I recall, no.

5 MS. JONES: Okay. So it's just -- I want to  
6 be clear, it's not sort of a hangover from the Committee  
7 that had been formed earlier, this is a fresh, new, I don't  
8 know, set of instructions for you, from your client?

9 MR. LEDUC: That's correct.

10 MS. JONES: Is that how you perceive that?

11 MR. LEDUC: I -- sure, yes.

12 MS. JONES: Yes?

13 MR. LEDUC: Yes.

14 MS. JONES: Now, at this August 25<sup>th</sup> meeting,  
15 presumably there would have been some contact with Mr.  
16 MacDonalld to make sure that there was a time suitable to  
17 everybody that could come to a meeting?

18 MR. LEDUC: Mr. MacDonalld called me and  
19 asked me to arrange the meeting. And I would imagine he  
20 would have told me when he was available and then I got  
21 back to him as to when the Bishop was available and we had  
22 the meeting.

23 MS. JONES: So how would Mr. MacDonalld  
24 though have known to contact you to set up a meeting?

25 MR. LEDUC: He knew that I was the Diocesan

1 lawyer.

2 **MS. JONES:** So that was general knowledge  
3 that you were the Diocesan lawyer, that you were perceived  
4 that way anyway.

5 **MR. LEDUC:** I think so.

6 **MS. JONES:** Okay. And the last time you  
7 spoke to Mr. MacDonald then before arranging this meeting,  
8 as you stated earlier I believe, was in February, before  
9 February 16<sup>th</sup>, I believe February 9<sup>th</sup>. And that was the one  
10 and only conversation that you said that you had with Mr.  
11 MacDonald about the Silmsler matter.

12 **MR. LEDUC:** I'm not prepared to say that.  
13 There may have been other conversations in the summer,  
14 maybe towards the end of August, but I don't recall.

15 **MS. JONES:** And, again, he would have  
16 contacted you in February. How would he know to contact  
17 you?

18 **MR. LEDUC:** Well, if it was with respect to  
19 a potential claim to be made against the Diocese, either,  
20 and I'm guessing, a member of the clergy would have told  
21 him to call me or he would have known.

22 **MS. JONES:** Well, in February though,  
23 February 9<sup>th</sup>, at that point there was no claim against the  
24 diocese at that point. And I'm talking in the context of a  
25 civil claim.

1                   **MR. LEDUC:** Yes. No issued claim. No,  
2                   you're right.

3                   **MS. JONES:** So how would he have known then  
4                   to contact you back in February?

5                   **MR. SKURKA:** With respect, Mr. Commissioner,  
6                   it's calling for speculation on Mr. Leduc's part to explain  
7                   how this man would have known to call him and I don't see  
8                   how that's really helpful to your inquiry.

9                   **THE COMMISSIONER:** Well, I agree with you in  
10                  one way. Did we not establish when Mr. MacDonald, Angus  
11                  MacDonald, I'm sorry -- what period are we in now? In  
12                  August?

13                  **MS. JONES:** We're in August. I'm just now  
14                  looking at contact with Malcolm MacDonald, so I'm just  
15                  referring back to February 9<sup>th</sup> timeframe because do you know  
16                  -- I'm sorry ---

17                  **THE COMMISSIONER:** Sorry, go ahead.

18                  **MS. JONES:** I put the letter to you earlier  
19                  when Mr. MacDonald was retained by Father Charles and  
20                  you're not certain if you've even saw that letter or were  
21                  aware of that on the date of the meeting but the thing that  
22                  I'm just trying to get at is, how would Mr. MacDonald have  
23                  known to call you on the very day you are meeting Mr.  
24                  Silmser to discuss the matter back in February without  
25                  there being some sort of contact prior to that to say that

1       you are involved in this matter.

2                   **MR. LEDUC:** I could be mistaken but I don't  
3 recall saying that I met or spoke with Mr. MacDonald in  
4 February, on February the 9<sup>th</sup>, before the meeting.

5                   **MS. JONES:** Okay, let me take you -- no,  
6 after the meeting. After the Silmsen meeting.

7                   **THE COMMISSIONER:** The day after? Or same  
8 day?

9                   **MS. JONES:** I -- it doesn't actually says --  
10 it says -- it's under the same heading as February 9<sup>th</sup>.

11                   **THE COMMISSIONER:** So it's your statement.

12                   **MS. JONES:** It's your statement.

13                   **MR. LEDUC:** Okay. Well, I say ---

14                   **MS. JONES:** If I can refer you to ---

15                   **MR. LEDUC:** --- after our meeting with the  
16 complainant and my contact with Malcolm MacDonald, little  
17 else happened until August.

18                   **MS. JONES:** No, no. Let me be fair.

19                   **MR. LEDUC:** Okay.

20                   **MS. JONES:** I'll show you where I'm looking  
21 at actually, 2728.

22                   **MR. LEDUC:** Yes.

23                   **MS. JONES:** The second paragraph.

24                   **MR. LEDUC:** Yes.

25                   **MS. JONES:** As I say, it's under the heading

1 of "February 9<sup>th</sup>" but I don't know if it's actually February  
2 9<sup>th</sup>. It could be ---

3 **MR. LEDUC:** Sometime after the meeting and  
4 in August I may have had a phone call with Malcolm,  
5 certainly not a meeting.

6 **MS. JONES:** But here you have it under your  
7 heading which is still February 9<sup>th</sup> which is the date of the  
8 meeting. You go:

9 "Some time after the initial meeting  
10 with the complainant I had my first  
11 contact with Malcolm MacDonald on this  
12 subject."

13 The next entry is dated February 16<sup>th</sup>. So  
14 I'm assuming it was between February 9<sup>th</sup> and the 16<sup>th</sup> at some  
15 point.

16 **MR. LEDUC:** I don't think that's a fair  
17 assumption because I don't remember it. I don't remember  
18 it being at that time.

19 **MS. JONES:** Do you agree with me, the way  
20 that you've listed things in your chronology, that it seems  
21 to follow chronologically that you had the meeting with  
22 Silmsler, then you talk about your first initial contact  
23 with Malcolm MacDonald, then it's February 16<sup>th</sup>?

24 **MR. LEDUC:** Yes, that's correct. But if  
25 you're asking me if I remember meeting or speaking with him



1 at that time, my answer is no, I don't recall.

2 MS. JONES: You don't have any independent  
3 recollection of it?

4 MR. LEDUC: No.

5 MS. JONES: Is that your evidence?

6 MR. LEDUC: No.

7 MS. JONES: Okay. If we're to go by your  
8 statement that you prepared much closer to the time then,  
9 here we are in July 2008, the question I have surrounding  
10 that really is how would -- if your role was defined at  
11 that time to solely being on the committee -- and you were  
12 very clear about that before the lunch break -- how would  
13 Malcolm MacDonald know to have called you at any time after  
14 the Silmsler meeting to have this discussion? Did you make  
15 ---

16 THE COMMISSIONER: Just a second.

17 MS. JONES: --- the fact that you were  
18 retained by the Diocese known somehow to Mr. MacDonald?

19 THE COMMISSIONER: Now, there's an  
20 objection, and if it's the objection how would he know,  
21 it's okay to ask him do you know if he knew. I mean, he  
22 might -- the witness might say "Yeah, I phoned Mr.  
23 MacDonald and said 'I'm still acting. If you need  
24 anything, give me a call'."

25 MR. SKURKA: If the question starts with the

1 words "Do you know" as opposed "How would he know", I would  
2 agree with you, with respect, Mr. Commissioner.

3 **THE COMMISSIONER:** All right.

4 So how would he know?

5 **MR. LEDUC:** I think it was general knowledge  
6 that I was the Diocesan lawyer. He would not have known  
7 that I had received a specific mandate from the Bishop  
8 because I had not.

9 **MS. JONES:** Well, at the time of the  
10 committee you had the mandate.

11 **MR. LEDUC:** To be on the committee, yes.

12 **MS. JONES:** So the question is, so did you -  
13 - do you have any idea how he would have known that you  
14 were part of meeting with the complainant and surrounding  
15 allegations surrounding his client?

16 I'm just wondering. It's not a direct sort  
17 of legal advice kind of role, is it, being on the  
18 committee; it's something quite different.

19 **MR. LEDUC:** If your question is do I know  
20 how Malcolm knew I was on the committee, no, I don't know  
21 how he knew.

22 **MS. JONES:** But you're absolutely certain  
23 you did not make the contact with Mr. MacDonald?

24 **MR. LEDUC:** Yes.

25 **MS. JONES:** And when contact was made with

1 Mr. MacDonald, it appears that you did have a conversation  
2 with him of some sort about the Silmsler situation, as  
3 described here in Bates page 2728; would you agree with me  
4 on that?

5 MR. LEDUC: At one point in time I did have  
6 a discussion with Mr. MacDonald on the Silmsler matter, yes.

7 MS. JONES: I'm talking specifically of the  
8 conversation of that first contact on Bates page 2728.

9 MR. LEDUC: Yes.

10 MS. JONES: Did your client instruct you to  
11 speak with Mr. MacDonald about this?

12 MR. LEDUC: Well, at one point in time I was  
13 asked to -- the Bishop asked me -- and I'm not sure if  
14 that's August or before August and I'm not sure when I had  
15 this conversation with Malcolm.

16 So certainly I would have had instructions  
17 to speak with Malcolm, yes. Whenever that happened, I  
18 would have had instructions to speak with him.

19 MS. JONES: This conversation that's  
20 described on Bates page 2728, are you saying now that this  
21 conversation could have taken place in August and not in  
22 February as you've placed it here in your chronological  
23 order?

24 MR. LEDUC: It could have, yes, because I  
25 have no recollection of any discussions between February

1 and August with Malcolm. I've no recollection of that.

2 MS. JONES: Is it possible it took place in  
3 February in the chronological order that you actually have  
4 made this statement in?

5 MR. LEDUC: It's possible, yes.

6 MS. JONES: So if it's possible it did  
7 actually take place in February as described here, then  
8 what would have been your client's instructions on speaking  
9 with Malcolm MacDonald concerning the meeting you had with  
10 David Silmser?

11 MR. LEDUC: To deal with the Silmser matter;  
12 to represent the Diocese; those would have been my  
13 instructions. But I don't recall.

14 MS. JONES: Could I also refer you to  
15 Exhibit 1501? And it would be Bates page 3634.

16 MR. LEDUC: Repeat the Bates page please?

17 MS. JONES: Three six three four (3634).

18 Now, just to clarify this for you, Mr.  
19 Leduc, this has obviously been entered in the previous  
20 occasion and it has been established and verified that  
21 these are actually handwritten notes of Malcolm MacDonald  
22 and ---

23 THE COMMISSIONER: Well, just a second.

24 MS. JONES: I'm sorry.

25 MR. SHERRIFF-SCOTT: That is not so. First

1       these are not authenticated; secondly, there's no evidence  
2       that they're his own handwriting or that he created them  
3       other than that they may have emanated from his file.  
4       There's no authentication of this document so that should  
5       not be put to the witness as a premise.

6                   **THE COMMISSIONER:** M'hm.

7                   **MR. SHERRIFF-SCOTT:** Thank you.

8                   **MS. JONES:** I'm sorry; Mr. Commissioner,  
9       that's not my understanding. I thought that they had  
10       actually been verified as the handwritten notes of Malcolm  
11       MacDonald.

12                   **THE COMMISSIONER:** How would they have been  
13       verified?

14                   **MS. JONES:** When they were first entered as  
15       an exhibit.

16                   **THE COMMISSIONER:** I'm sorry; would it --  
17       it's 1501?

18                   **MS. JONES:** While we deal with that issue,  
19       perhaps a little bit later on, if we, for the sake of  
20       argument, postulate that these seem to be the handwritten  
21       notes of Malcolm MacDonald ---

22                   **MR. SKURKA:** Just a second, Mr.  
23       Commissioner. I have to object to the question because I  
24       share Mr. Sherriff-Scott's concern. It would be easily  
25       something that can be ascertained at a break and we can

1           come back to it if that's the case.

2                   **MS. JONES:** Well, I happened to be the lead  
3           counsel actually when this was entered as an exhibit  
4           through the evidence of Officer Malloy.

5                   **THE COMMISSIONER:** Yes.

6                   **MS. JONES:** And certainly, at the time of  
7           putting the questions to Officer Malloy about these  
8           particular excerpts, because they refer to his evidence as  
9           well, ---

10                  **THE COMMISSIONER:** M'hm.

11                  **MS. JONES:** --- there was no issue at that  
12           time as to what the source of this -- these handwritten  
13           notes were. And that's why this is a new sort of objection  
14           to these notes.

15                  **MR. MANDERVILLE:** That's not accurate, Mr.  
16           Commissioner. The evidence with Officer Malloy was that  
17           the notes, whose ever they are, do indeed refer to him and  
18           to Kevin Maloney. There was no authentication of the notes  
19           as being that of Malcolm MacDonald.

20                  **THE COMMISSIONER:** M'hm.

21                  **MS. JONES:** Well, there was certainly no  
22           objection to the fact that they were entered in as  
23           handwritten notes of Malcolm MacDonald. Perhaps that's a  
24           clearer point. And Officer Malloy certainly answered the  
25           questions as if they were Malcolm MacDonald's handwritten

1 notes because ---

2 **MR. MANDERVILLE:** That's not accurate  
3 either. Officer Malloy answered the questions insofar as  
4 these notes concerned him and made reference to him. He  
5 was in no position and nor did he say "Yeah, those are  
6 Malcolm MacDonald's notes."

7 **THE COMMISSIONER:** All right.

8 So how did they come into our databank?  
9 Whose disclosure were they?

10 **MR. MANDERVILLE:** I don't believe they came  
11 from the Cornwall police, Mr. Commissioner.

12 **MS. JONES:** We may need a break to determine  
13 this but perhaps I can just put the excerpt to this witness  
14 to see if, in fact, that might assist. It's a very small  
15 point.

16 **THE COMMISSIONER:** What's the point?

17 **MS. JONES:** Because it just refers to Mr.  
18 Leduc and a meeting he may have had with the Bishop on  
19 February 22<sup>nd</sup>. That's the only point to be made on this  
20 particular situation.

21 Do you recall -- if you can see half-way  
22 down the page, it says "February 22<sup>nd</sup>", Madam Clerk, a  
23 little bit further down; there.

24 "February 22<sup>nd</sup>, meeting with Bishop and  
25 Jacques Leduc, one-and-one quarter

1 hour."

2 Do you recall if you had a meeting with the  
3 Bishop and Malcolm MacDonald on February 22<sup>nd</sup>, 1993?

4 **MR. LEDUC:** No, ma'am.

5 **THE COMMISSIONER:** No, you don't remember or

6 ---

7 **MR. LEDUC:** No, there --- an hour-and-a-  
8 quarter with the Bishop and Malcolm MacDonald?

9 **THE COMMISSIONER:** Okay, forget the hour-  
10 and-a-quarter.

11 Do you recall meeting with the Bishop and  
12 Mr. MacDonald?

13 **MR. LEDUC:** No, not ---

14 **THE COMMISSIONER:** Okay.

15 **MR. LEDUC:** --- in February. No, I do not  
16 recall that.

17 **THE COMMISSIONER:** Okay.

18 So, again, just to make it clear, it's not  
19 that you have no memory of it, you're saying, "I don't  
20 think it happened".

21 **MR. LEDUC:** I don't think it happened.

22 **THE COMMISSIONER:** Okay.

23 **MS. JONES:** Now, if we go back to Exhibit  
24 1887, please, and again Bates page 2730.

25 **(SHORT PAUSE/COURTE PAUSE)**



1                   **MR. LEDUC:** Yes.

2                   **MS. JONES:** Certainly by August 25<sup>th</sup> of 1993,  
3                   again, it seems to be Malcolm MacDonald, yourself and the  
4                   Bishop and I understand Gordon Bryan may be there, but Mr.  
5                   Bryan would be there in a limited role. He's the financial  
6                   person ---

7                   **MR. LEDUC:** He's the bursar.

8                   **MS. JONES:** --- for want of a better word --  
9                   a bursar. But the actual substance of the meeting and  
10                  where it was going, that would still be purview of  
11                  yourself, Mr. MacDonald and the Bishop?

12                  **MR. LEDUC:** My recollection is Gordon  
13                  participated in the discussions, yes.

14                  **MS. JONES:** Participated ---

15                  **MR. LEDUC:** He was just not there as a  
16                  witness, he participated in the discussion.

17                  **MS. JONES:** Okay. And we already went over  
18                  the fact that the Bishop had refused to consider any  
19                  settlement.

20                  Getting back to the issue of why you thought  
21                  it was a good idea to have a settlement, I just want to  
22                  focus on the paragraph we were at when we broke for lunch,  
23                  and that was the paragraph that stated:

24                                 "I left the meeting feeling very  
25                                 angry."

1 Do you see that towards the bottom?

2 MR. LEDUC: Yes.

3 MS. JONES: I'm just going to take this  
4 apart a little bit.

5 "I thought from my experience in these  
6 matters, the settlement represented a  
7 good opportunity to resolve a messy  
8 situation."

9 So the word I'm focussing on there is "experience". Are  
10 you able to tell us previous occasions that you were  
11 involved in negotiating on behalf of the Diocese with other  
12 priests that were charged with inappropriate sexual  
13 conduct?

14 MR. LEDUC: None.

15 MS. JONES: And what experience then were  
16 you referring to, in general terms, I'm not looking  
17 necessarily for specifics.

18 MR. LEDUC: In matters dealing with my  
19 clientele generally in relation to all kinds of claims, it  
20 was my experience, and is still my view, that these matters  
21 need to be settled with the consent of both parties.  
22 That's the best way to resolve the conflict.

23 MS. JONES: Now ---

24 MR. LEDUC: And that's what it means.

25 MS. JONES: --- had you had any previous

1 experience with any other Diocese or any other parties  
2 involving historical sexual assaults?

3 MR. LEDUC: At that time?

4 MS. JONES: At that time.

5 MR. LEDUC: One. One, yes, one. Not in  
6 Ontario.

7 MS. JONES: That's one in Québec that you --

8 -

9 MR. LEDUC: Yes.

10 MS. JONES: --- referred to earlier?

11 MR. LEDUC: Yes.

12 MS. JONES: Okay.

13 You've got here:

14 "To protect the reputation of the  
15 priest which would be destroyed by any  
16 legal proceedings regardless of his  
17 innocence."

18 And were you also -- could you also consider  
19 your experience to be the experience you had on the  
20 committee with Father Deslauriers as being part of your  
21 experience that you're drawing on in trying to resolve  
22 these matters?

23 MR. LEDUC: Well, with respect to Father  
24 Deslauriers' matter, there was no resolution that I  
25 participated in so that's -- that wouldn't be part of it,

1 no.

2 **MS. JONES:** Okay.

3 We then have on the next page, Bates page  
4 2731 -- you write:

5 "After the first meeting..."

6 -- which you just talked about on August 25<sup>th</sup>:

7 "...I was told by Malcolm MacDonald  
8 that he had been told that there was  
9 insufficient evidence to lay charges  
10 against Father Charles. For that  
11 reason, criminal charges were less of a  
12 concern in my mind and the discussions  
13 were intended to resolve any  
14 outstanding civil claim."

15 And the next line says:

16 "The Bishop agreed to meet with Malcolm  
17 MacDonald and I a second time to  
18 discuss the matter."

19 So, again, it's very clear from this that  
20 Monsignor McDougald is not involved in these settlement  
21 meetings or settlement conferences that you're having with  
22 Mr. MacDonald and the Bishop?

23 **MR. LEDUC:** He was not present in either one  
24 of those meetings.

25 **MS. JONES:** So is it also fair to say you've

1       classified yourself as the Diocesan lawyer, that you  
2       obviously are taking that role in these meetings. You're  
3       representing your client, the Bishop, in discussions with  
4       Malcolm MacDonald who is the lawyer for Father Charles  
5       MacDonald?

6                   **MR. LEDUC:** That's correct.

7                   **MS. JONES:** Okay. And what exactly was your  
8       retainer for this? What was it explained to you at that  
9       point?

10                  **MR. LEDUC:** I don't understand the question.

11                  **THE COMMISSIONER:** Well ---

12                  **MS. JONES:** What ---

13                  **THE COMMISSIONER:** --- you seem to say, "I  
14       go by retainers", so -- and I go to the committee, that's  
15       my retainer. So how did you get this retainer?

16                  **MR. LEDUC:** The Bishop asked me.

17                  **THE COMMISSIONER:** When?

18                  **MR. LEDUC:** Sometime in August I would  
19       think, when I asked him for a meeting with Malcolm  
20       MacDonald; the first meeting. I would have called the  
21       Bishop, indicated to the Bishop that Malcolm wanted a  
22       meeting. That's when I would have been asked by the Bishop  
23       to deal with this matter.

24                  **THE COMMISSIONER:** Okay.

25                  **MS. JONES:** You said that you were contacted

1 by Malcolm MacDonald in late August to discuss a settlement  
2 with the Bishop. Is that ---

3 MR. LEDUC: Yes.

4 MS. JONES: --- what you're referring to?

5 MR. LEDUC: Yes.

6 MS. JONES: Okay. So you are retained then  
7 for acting on behalf of the Diocese in negotiating this  
8 settlement with Malcolm MacDonald?

9 MR. LEDUC: Well, once the Bishop said he  
10 wouldn't settle, that was the end of that meeting and then  
11 it went on to the second one where Malcolm again called and  
12 asked for another meeting with the Bishop.

13 MS. JONES: And at that point you're stating  
14 in your statement that Malcolm MacDonald presented the case  
15 saying that the complainant was prepared to accept \$32,000?

16 MR. LEDUC: That's correct.

17 MS. JONES: So by September 1<sup>st</sup> then, it  
18 would appear that Malcolm MacDonald has talked to Mr.  
19 Silmsler at some point prior to September 1<sup>st</sup> and this figure  
20 has been suggested and now Malcolm MacDonald's coming to  
21 you and the Bishop to say he can settle for thirty-two  
22 thousand; that's a fair figure?

23 MR. LEDUC: Well ---

24 MS. JONES: In his mind.

25 MR. LEDUC: --- it was Malcolm's

1 information, yes.

2 MS. JONES: How was it that Malcolm  
3 MacDonald ended up speaking then to David Silmser?

4 THE COMMISSIONER: Do you know?

5 MS. JONES: Do you know how Mr. MacDonald  
6 ended up speaking to David Silmser to come up with this  
7 figure?

8 MR. LEDUC: I do not know.

9 MS. JONES: Now, if we could please go ---

10 THE COMMISSIONER: Well, before we leave  
11 this page, have ---

12 MS. JONES: Yes.

13 THE COMMISSIONER: --- you finished with  
14 this page?

15 MS. JONES: I am going to go back to it.

16 THE COMMISSIONER: Okay.

17 MS. JONES: I'm just going on to a certain  
18 point.

19 THE COMMISSIONER: Okay.

20 MS. JONES: If I could please revisit  
21 Exhibit 863?

22 THE COMMISSIONER: Exhibit 863.

23 MS. JONES: Document 714897. This is the  
24 interview of Malcolm MacDonald again by the OPP on October  
25 28<sup>th</sup>, 1994.

1 I had already spoken to you about one  
2 section which was on Bates page 5939, and at that point Mr.  
3 MacDonald was stating that he was asked by someone at the  
4 Diocese; he believes it was Monsignor McDougald. In fact,  
5 he says:

6 "I'm also certain it was Monsignor  
7 McDougald. Somebody anyway asked if it  
8 was done."

9 And so somebody from the Diocese was asking  
10 Malcolm MacDonald to contact David Silmser to discuss the  
11 possibility of some sort of negotiation by the looks of  
12 this in any event. Was that you that would have made that  
13 suggestion?

14 **MR. LEDUC:** No.

15 **MS. JONES:** Now, on Bates page 5942 and I'm  
16 looking at the bottom at the sentence that begins, "But  
17 apparently".

18 And it would appear, if I'm going to  
19 summarise what happened in the previous pages, there's some  
20 talk about money with Mr. Silmser. But anyway, it appears  
21 that now, Mr. MacDonald is being asked to go back to Mr.  
22 Silmser and I'm just going to put that on the record here:

23 "But apparently, everybody thought that  
24 probably the answer may be if he wants  
25 some money, give him some money and



1 then everybody have their peace.  
2 That's when I was asked to call again  
3 because now I'm the only one that he'll  
4 talk to because he hates Leduc because  
5 the way he hand -- do you him, and he  
6 doesn't care about these other people.  
7 So I was the white haired boy, so he  
8 said. Silmsen thought I was the good  
9 guy."

10 The question by the police is:

11 "Who asked you to see him again then?"

12 The answer:

13 "It would be somebody from the Diocese  
14 cause they were the ones who were  
15 putting up -- put up the money. It  
16 could -- could have been Monsignor  
17 McDougald or -- or Leduc. I don't  
18 think it was the Bishop himself because  
19 I wasn't dealing directly with him."

20 And then further down the officer says:

21 "One of those two people? --

22 meaning McDougald or Leduc.

23 And the answer was:

24 "Well what -- it was from the Diocese  
25 as such. One of the representative

1                                   that gave me that information."

2                                   So that's a really key sort of a factor here  
3 because it would seem that Malcolm MacDonald was being  
4 tasked by someone at the Diocese to go and speak to David  
5 Silmser to see if this could be settled on that, if I'm  
6 going to paraphrase what he was being asked to do.

7                                   **MR. SKURKA:** It's not that it would seem;  
8 that was his version as were produced in his statement.  
9 That's it.

10                                   **THE COMMISSIONER:** M'hm.

11                                   **MS. JONES:** It would seem that's his  
12 version.

13                                   So if you look at the second point of  
14 contact when Mr. Malcolm MacDonald is asked by the Diocese  
15 to contact David Silmser, he actually says it's either  
16 McDougald or yourself.

17                                   **MR. SKURKA:** Well, that's, with respect, not  
18 right.

19                                   **THE COMMISSIONER:** No.

20                                   **MR. SKURKA:** It says "It could have been  
21 Leduc. It could have been..." -- he's even qualifying it as  
22 opposed to -- and in the next paragraph he even makes it  
23 more ambivalent.

24                                   **MS. JONES:** He says "a representative of the  
25 Diocese" and he names you and Mr. -- Monsignor McDougald, I

1 should say, as being the two that pop into his mind.

2 Let me put it this way, would it have been,  
3 could it have been yourself that asked Malcolm MacDonald to  
4 contact David Silmsler on this occasion?

5 **MR. LEDUC:** Never.

6 **MS. JONES:** Do you have independent  
7 recollection of that?

8 **MR. LEDUC:** I recall Malcolm's calls to me  
9 in August when he was bringing the matter up. I never was  
10 instructed by the Diocese nor did I ever contact Malcolm  
11 MacDonald to solicit his assistance in relation to  
12 obtaining some settlement from David Silmsler. Never.

13 **MS. JONES:** Now, if we go back to your  
14 statement in 1887 -- not the year, the Exhibit number.

15 **MR. LEDUC:** Just a second, please. Yes.

16 **MS. JONES:** Again I'm still on Bates page  
17 2731.

18 **MR. LEDUC:** Yes.

19 **MS. JONES:** The chronology is still  
20 September 1<sup>st</sup>.

21 Would you agree with me that there doesn't  
22 seem to be any discussion there about who contacted Malcolm  
23 MacDonald, if anyone contacted Malcolm MacDonald, to have  
24 him ask David Silmsler for a settlement? That's not a topic  
25 actually of conversation.

1                   **MR. LEDUC:** Okay.

2                   **MS. JONES:** As a lawyer for the Diocese,  
3 were you concerned at all about the apparent obvious  
4 conflict of interest that would have presented itself with  
5 Malcolm MacDonald also going to David Silmsers to negotiate  
6 a settlement with you representing the Diocese?

7                   **MR. LEDUC:** Malcolm MacDonald was  
8 communicating with me as Diocesan lawyer and as he was a  
9 lawyer for Father Charles, and in circumstances that I  
10 don't know anything about, he had these communications with  
11 Mr. Silmsers. And he relayed those communications to me to  
12 obtain some kind of an indication whether or not the  
13 Diocese, the Bishop, would come to some accommodation or  
14 settlement, and the Bishop's first reaction was no.

15                   What happened between that time and the time  
16 Malcolm MacDonald called me back, there obviously had to be  
17 other communications between Malcolm MacDonald and David  
18 Silmsers or whoever to bring back the details that Malcolm  
19 brought back to me and the Bishop.

20                   Malcolm was always by me viewed as being the  
21 solicitor for Father Charles. It is for that reason that I  
22 insisted that if there was to be a settlement, that the  
23 documentation be submitted to a independent lawyer who  
24 would give Mr. Silmsers independent legal advice.

25                   **MS. JONES:** Certainly that happens down the

1 road but at this particular point in time on September 1<sup>st</sup>,  
2 Malcolm MacDonald is still coming to the meeting saying  
3 "Mr. Silmser is willing to settle for \$32,000".

4 I'm saying as a lawyer and also protecting  
5 your client's interest, were you not the slightest bit  
6 concerned about the obvious conflict of interest of Malcolm  
7 MacDonald representing both Father Charlie MacDonald, it  
8 would appear, and to some extent, Mr. Silmser?

9 **MR. LEDUC:** But it was not my client's  
10 conflict. My client, as in this instance, was being  
11 approached by a solicitor for Father Charles.

12 The only interest I would have is in  
13 protecting my client's best interests, and those are the  
14 only interests I had, and that would include setting up a  
15 process whereby if there was to be a settlement, that it  
16 would be valid and that it would be legitimate. And by  
17 that I mean having the complainant or the plaintiff in this  
18 instance enter into a relationship with a lawyer where he  
19 would get independent legal advice.

20 **MS. JONES:** I'm not even asking the question  
21 as solicitor or lawyer for the Diocese. What about as your  
22 role just as an officer of the court?

23 **MR. LEDUC:** In what way?

24 **MS. JONES:** That you see an apparent  
25 conflict of interest between Malcolm MacDonald presenting a

1 settlement offer where he's also saying "The complainant  
2 will settle for this. We're happy with this. What do you  
3 think about that?"

4 **MR. SKURKA:** Can I inquire, Mr.  
5 Commissioner, how it would be relevant to know if he's  
6 fulfilling his duty as a solicitor. He's already answered  
7 his duty as a lawyer to the Diocese, which is relevant for  
8 this Inquiry.

9 But in terms of whether he's acting  
10 professionally and responsibly, how is that, I would say  
11 rhetorically, the subject matter for this Inquiry?

12 **THE COMMISSIONER:** Mr. Sherriff-Scott.

13 **MR. SHERRIFF-SCOTT:** Yes. I think that the  
14 issue is more fundamental than that, which is that there is  
15 a premise embedded in this question that there is an  
16 obvious conflict of interest.

17 **THE COMMISSIONER:** M'hm.

18 **MR. SHERRIFF-SCOTT:** And if that were the  
19 case, then every time a lawyer spoke to an unrepresented  
20 claimant, that person would be in an obvious conflict of  
21 interest.

22 Mr. Silmsner testified here and didn't talk  
23 about him being in a relationship with Malcolm MacDonald  
24 qua client-solicitor. And so I think that the fundamental  
25 premise which is being used as the launching pad for these

1 questions simply is improper. It is not appropriate and it  
2 is not founded in the evidence.

3 Those are my submissions. Thank you.

4 **THE COMMISSIONER:** Do you have a reply?

5 **MS. JONES:** I would submit that there is an  
6 obvious conflict of interest when one party is un-  
7 represented in a civil settlement; the other party is  
8 represented by counsel. If the person chooses not to have  
9 a lawyer, that's fine. I'm not actually saying that there  
10 is anything fundamentally wrong with making negotiations.

11 What I -- all I'm putting out is the  
12 conflict of interest. Was this something that he put his  
13 mind to? And if it's decided Mr. Silmsler did not want to  
14 have a lawyer, that's his entire right to do so.

15 **THE COMMISSIONER:** Well, we've heard from  
16 Mr. Silmsler and I don't know that there's any rule that  
17 prevents a lawyer representing a client to negotiate a  
18 settlement with a unrepresented accused -- complainant,  
19 plaintiff. I don't think that's conflict of interest.

20 **MS. JONES:** The conflict of interest isn't  
21 necessarily negotiating with a unrepresented person. The  
22 conflict is when the lawyer for the opposite party, in this  
23 case a perpetrator, is bringing forward what the  
24 complainant will settle for. It's that conflict of  
25 interest; not that you're negotiating with an unrepresented

1 person but that the offer is being brought to the table by  
2 someone representing -- someone who's clearly on the  
3 opposite side of the complainant.

4 **THE COMMISSIONER:** Well, ---

5 **MS. JONES:** That's -- all I'm asking is if  
6 that was something he put his mind to, if he saw that this  
7 was a conflict of interest.

8 **THE COMMISSIONER:** Well, no, no, you put it  
9 to him that it was a conflict of interest. If you are  
10 going to ask him now did he think of it as a conflict of  
11 interest, I might let that go, but I don't see, unless I'm  
12 missing your point. You're saying Malcolm was doing  
13 something wrong? Well, anyhow.

14 **MS. JONES:** Well, no, the -- Mr. Leduc is  
15 representing a third party; not in the legal sense, but it  
16 being one, two, three, a third party, but one lawyer is  
17 representing one side and seems to be representing the  
18 opposite side. It's as well with what the complainant will  
19 settle for and saying this is what he'll go for and this is  
20 what my client is thinking is a good idea. What do you  
21 think? So ---

22 **THE COMMISSIONER:** No, I don't see it as a  
23 conflict. I see it as a person adverse in interest to Mr.  
24 Silmser has talked discussions about settlement is coming  
25 back to someone who is somewhat allied, the Diocese and



1 Father Charles MacDonald, to come to some agreement on how  
2 to collect the money to give it to him. I don't see that  
3 as a conflict per se.

4 **MS. JONES:** M'hm.

5 **THE COMMISSIONER:** And I think it's very  
6 clear that what lawyers would do is once they've agreed on  
7 an amount, they'd say, "Now, because I'm representing my  
8 client and, Mr. Leduc, I want you to get independent legal  
9 advice about this." And I think that is fulfilling an  
10 obligation that you may have, or is properly representing  
11 your own client to ensure that the settlement will survive  
12 a close scrutiny.

13 So no, let's go on to something else.

14 **MS. JONES:** Did you feel that there was a  
15 conflict of interest the way that the ---

16 **MR. SKURKA:** Are we going to ask Mr. Leduc  
17 for a legal opinion of something that you've indicated is  
18 not a conflict of interest?

19 **THE COMMISSIONER:** Maybe he thought it was.

20 **MR. SKURKA:** Fair enough.

21 **THE COMMISSIONER:** You know.

22 **MS. JONES:** Did you feel it was a conflict  
23 of interest when Malcolm MacDonald presented a settlement  
24 offer that he said Mr. Silmsen was happy with?

25 **MR. LEDUC:** No, I agree with the

1 Commissioner.

2 **THE COMMISSIONER:** Well, may the record show  
3 that someone agrees with me.

4 (LAUGHTER/RIRES)

5 **THE COMMISSIONER:** Sir, what about  
6 insurance? Like you said to the Bishop, "advise your  
7 insurers." I mean why would you not have told him, "Well,  
8 go and see the insurers; they may pay for this"?

9 **MR. LEDUC:** Bear with me; I'm trying to  
10 refresh my memory as to if we had those conversations.

11 There is no doubt that I did in December  
12 advise Gordon Bryan to put the insurers on notice.

13 **THE COMMISSIONER:** M'hm.

14 **MR. LEDUC:** I don't recall if the insurance  
15 subject came up afterwards, but if it -- if it did come up,  
16 and I have no recollection of it, it would have been a  
17 matter of deductible, whether the claim -- I have no idea  
18 what happened. I have no idea.

19 **THE COMMISSIONER:** Okay. But you don't  
20 recall ---

21 **MR. LEDUC:** I don't recall having any  
22 discussions about any insurance company paying for this  
23 claim.

24 **THE COMMISSIONER:** You see, because there's  
25 a cloud over all of this settlement; right?

1                   **MR. LEDUC:** Sure, yeah.

2                   **THE COMMISSIONER:** And so some people might  
3 say, "Well, wait a minute now. Why would the Diocese pay  
4 whatever, pay \$25,000? Unless maybe the deductible was 50  
5 and then it didn't really matter; it was all within their  
6 pocket."

7                   But let's assume that the deductible was  
8 \$5,000, some people might think, "Well, that's another  
9 proof that they should have gone to the insurer to get it  
10 but they didn't because they wanted to slide all of this  
11 under the carpet."

12                   **MR. LEDUC:** Mr. Commissioner, that would be,  
13 with all due respect, a question to put to the Diocese as  
14 to why it didn't proceed with ---

15                   **THE COMMISSIONER:** It will be put to them  
16 but you're the Diocesan lawyer. You say you go by  
17 retainers and you do your best for that client there.

18                   **MR. LEDUC:** Yes, that's right.

19                   **THE COMMISSIONER:** And so now at this point  
20 you've already told them to go to the insurers. You're  
21 pushing this settlement. You're saying it's a good deal.  
22 The legal cost will be more than the \$32,000. And then I  
23 say to you I don't know what the policy was for the Diocese  
24 but if they were covered, they wouldn't have paid anything  
25 but the deductible.

1                   **MR. LEDUC:** My answer is that I have no  
2                   recollection of discussions with respect to making any  
3                   claim against the insurance company at that point in time.  
4                   I have no independent recollection.

5                   **THE COMMISSIONER:** M'hm.

6                   **MS. JONES:** Now, I'm back at Exhibit 1887  
7                   and Bates page 2731, and I'm partway down with "I told the  
8                   Bishop."

9                   **MR. LEDUC:** Yes.

10                  **MS. JONES:** Just above that, they actually  
11                  are talking -- or Mr. MacDonald is actually talking about  
12                  the 32,000 settlement and the breakdown for it and it says  
13                  16,000 would represent therapy and the rest for damages.  
14                  The Diocese would contribute 27,000 while the priest would  
15                  pay the other five.

16                                Is that a recollection that you have of  
17                               that?

18                  **MR. LEDUC:** That's my recollection, what you  
19                  have in front of you.

20                  **MS. JONES:** Okay. You have no independent  
21                  recollection of that?

22                  **MR. LEDUC:** No, I do not.

23                  **MS. JONES:** Is it fair to say that generally  
24                  speaking you don't have independent recollection, that  
25                  you're really relying on these notes or the statement that

1           you've made?

2                   **MR. LEDUC:** Absolutely. I am -- yes, I am.

3                   **MS. JONES:** Okay.

4                   **MR. LEDUC:** Particularly in relations to  
5           some of the details I'm being asked.

6                   **MS. JONES:** Okay. Now, you said, "I told  
7           the Bishop it was a good settlement that we could make this  
8           go away basically for \$32,000." So in your legal opinion,  
9           this was a good settlement.

10                  **MR. LEDUC:** Absolutely.

11                  **MS. JONES:** And it appears that the Bishop  
12           still needed to be convinced and you even said at the  
13           bottom, "I believe that the Bishop was won over by our  
14           arguments. We were very forceful."

15                  **MR. LEDUC:** That's correct.

16                  **MS. JONES:** What do you mean by forceful?

17                  **MR. LEDUC:** I think the arguments we put --  
18           I put forth were persuasive and they were -- they were put  
19           forth in a very straightforward and unambiguous manner.

20                  **MS. JONES:** Because the word "forceful"  
21           actually seems to mean a bit more than persuasive, like he  
22           was won over by my great arguments. It seems like were you  
23           trying to make it as if the Bishop didn't have a choice in  
24           the matter or ---

25                  **MR. SKURKA:** I have no objection to the last

1 part of the question, if that's the whole question. It's  
2 the personal comments that preceded (off mic).

3 **MR. LEDUC:** Can you rephrase the question,  
4 please?

5 **MS. JONES:** When you hear or read the word  
6 "forceful," it could have the impression that it's somewhat  
7 more than just being persuasive, that there's actually  
8 something a bit more strong than being persuaded by a good  
9 argument.

10 Were you trying to make it so the Bishop had  
11 no choice in the matter, in other words?

12 **MR. LEDUC:** The Bishop was a very autonomous  
13 person and I would never say that Bishop Larocque would be  
14 coerced into making any such decision. By forceful, and  
15 again I'm just looking at the word now, not knowing what I  
16 meant when I wrote it then, meaning that the argument was  
17 an -- how would I say this -- a very -- it was a profound  
18 argument and certainly one that had some sense.

19 **MS. JONES:** And I would just like to refer  
20 to Exhibit 863, please, Bates page ---

21 **MR. LEDUC:** Eight six three (863)?

22 **MS. JONES:** Eight six three (863).

23 **MR. LEDUC:** Yes.

24 **MS. JONES:** Bates page 5946.

25 **MR. LEDUC:** Yes.

1                   **MS. JONES:** And this is the statement of  
2                   Malcolm MacDonald again to the OPP and I'm right at the  
3                   bottom and they're talking about the payout, shall we say,  
4                   for the amount, and at the very bottom, Malcolm MacDonald  
5                   is being asked by the officer what did you think about this  
6                   and he answered:

7                                    "I was against any monies being paid  
8                                    and I told that to the Bishop and the  
9                                    other people."

10                                  Do you recall Mr. MacDonald stating that  
11                   when these discussions were coming up at this time?

12                                  **MR. LEDUC:** Never.

13                                  Let me rephrase that. I recall that he  
14                   never said it.

15                                  **MS. JONES:** Okay. Now, at the bottom of the  
16                   page of going back now to your statement, which is Exhibit  
17                   1887, perhaps that can just be kept up on the screen, Madam  
18                   Clerk.

19                                  I'm looking at the very bottom of Bates page  
20                   2731 and I'm actually dealing with the next page but I'll  
21                   start with the sentence at the bottom of 2731.

22                                  And it states:

23                                        "Malcolm MacDonald and I went away with  
24                                        instructions to agree to the  
25                                        settlement."

1                   So it appears that that was the moment that  
2                   the Bishop had agreed to pay out that amount of money. Is  
3                   that correct?

4                   **MR. LEDUC:** Yes.

5                   **MS. JONES:** Now, I had asked you this  
6                   earlier, but you recall that previously between March and  
7                   August, 1993 Monsignor McDougald had informed you that  
8                   there had been other complaints against Father Charles  
9                   MacDonald?

10                  **MR. LEDUC:** Sometime, yes.

11                  **MS. JONES:** It would appear from your notes  
12                  here or your statement here that again you didn't tell the  
13                  Bishop of that knowledge that you had had that previous  
14                  summer before he agreed to the settlement. Is that true?

15  
16                  **MR. LEDUC:** I'm trying to recall -- some  
17                  phrases come to my mind and my recollection and one of them  
18                  is in my argument to the Bishop was, what history do you  
19                  have of this priest of the Diocese that he had this kind of  
20                  conduct and I remember basing my argument on that.

21                  So I'm questioning myself as to when I  
22                  received that information about the complaint from  
23                  Monsignor McDougald, and my recollection about the nature  
24                  of that complaint was such that it had been dealt with or,  
25                  you know, there had been a complaint but it either -- I



1 think it was said that it had been dealt with. I'm not  
2 sure if those were his exact words. But in my arguments  
3 with the Bishop, one of the basis of my argument was that  
4 this man's been in the Diocese for all of these years and  
5 do you know of anything else.

6 MS. JONES: Who did you pose that question  
7 to?

8 MR. LEDUC: The Bishop.

9 MS. JONES: To the Bishop?

10 MR. LEDUC: Yes.

11 MS. JONES: So I'm not sure if you've  
12 answered my question or not or maybe the answer's been lost  
13 in there.

14 All I'm asking you is, the knowledge that  
15 you gained during the summer of 1993 from Monsignor  
16 McDougald, did you share that knowledge with the Bishop  
17 before having him agree to enter into this settlement?

18 MR. LEDUC: I don't recall discussing this  
19 other complaint with the Bishop while we were discussing  
20 the terms of the settlement.

21 MS. JONES: Sorry, you don't recall?

22 MR. LEDUC: No.

23 MS. JONES: Would you agree with me that if  
24 the Bishop was aware that there may have been prior  
25 complaints of a similar nature against Father Charles

1 MacDonalld that that might have influenced whether he wanted  
2 to agree to this settlement with Mr. Silmsers?

3 **MR. LEDUC:** In hindsight I think it's fair  
4 to say if there were a different set of facts maybe it may  
5 have turned out differently. If I ---

6 **MS. JONES:** So what's your answer to the  
7 question?

8 **MR. LEDUC:** If we had known if there had  
9 been other circumstances brought forth and if we'd known  
10 about other facts, maybe it would have been different.

11 So my answer is it could have been  
12 different, sure.

13 Is that your question? I'm sorry.

14 **MS. JONES:** My question was, if you had told  
15 the Bishop what you learned during the course of the summer  
16 from Monsignor McDougald that there had been previous  
17 complaints made of Father Charles in addition to the  
18 Silmsers complaint or besides the Silmsers complaint, if you  
19 had told the Bishop what you learned in the summer from  
20 Monsignor McDougald, do you think that that would have  
21 impacted on whether the Bishop agreed to the settlement or  
22 not?

23 **MR. LEDUC:** I'm not sure how the Bishop  
24 would have reacted to that.

25 **MS. JONES:** Is it possible you didn't share

1       that information in hopes of getting the settlement  
2       finalized?

3                   **MR. LEDUC:** Definitely not. As a matter of  
4       fact, I've just said that my recollection is that I put to  
5       the Bishop the fact that this person, Charles MacDonald,  
6       had been in the Diocese for an extended period of time and  
7       that since he had what I thought was a clear record we  
8       should go ahead with this settlement and I was -- that was  
9       it.

10                   **MS. JONES:** Now, at the time that you -- now  
11       we're at the time where the settlement's been decided to go  
12       forward. Was there any discussion at that time about  
13       possibly removing Father Charles from the parish?

14                   **MR. LEDUC:** Not with me, no.

15                   **MS. JONES:** Was there any discussion -- I  
16       always mean with you ---

17                   **MR. LEDUC:** Yes, okay.

18                   **MS. JONES:** --- and the parties here,  
19       Malcolm MacDonald and the Bishop.

20                   Was there any discussion between the three  
21       of you about reporting this situation to the police  
22       authorities or CAS?

23                   **MR. LEDUC:** Well, as you know, Malcolm did  
24       indicate that there had been a police investigation and  
25       that it had been concluded. So -- and I think I say

1            somewhere in this report that it was no longer as present  
2            concern as it had been.

3                    **MS. JONES:** Did you yourself take the  
4            initiative to find out and satisfy yourself directly that  
5            the police complaint had been taken care of or did you just  
6            take Mr. MacDonald's word for it?

7                    **MR. LEDUC:** No. Further on in the  
8            statement, I say that before the settlement is concluded I  
9            have a brief meeting with the then Crown -- well, with the  
10           Crown Attorney, Murray MacDonald, and during this very  
11           brief meeting which happened at the Provincial Courthouse  
12           which was then on Pitt Street, I told him I was acting for  
13           the Diocese. I told him that I was about to settle a civil  
14           claim with respect to David Silmser and advised him of the  
15           circumstance of the settlement, that it was happening, and  
16           his response to me was do what you have to do.

17                   **MS. JONES:** I'm just talking about this  
18           particular point.

19                   You had not had that conversation that you  
20           described yet. I'm saying at this point when the  
21           settlement has been decided.

22                   **MR. LEDUC:** No.

23                   **MS. JONES:** You're told by Malcolm MacDonald  
24           that the police investigation is at a certain status. Did  
25           you check and verify it yourself?

1                   **MR. LEDUC:** Not that day, no.

2                   And at that time I had no reason to doubt  
3 Malcolm MacDonald's information. I mean, he was QC, former  
4 Crown Attorney, and a senior member of the Bar.

5                   **MS. JONES:** Now, was there anyone else that  
6 you met with to discuss the terms of the settlement  
7 agreement besides the persons that we've mentioned here,  
8 Malcolm MacDonald, the Bishop, Mr. Bryan ---

9                   **MR. LEDUC:** Gordon Bryan.

10                  **MS. JONES:** Is it Father Bryan?

11                  **MR. LEDUC:** No.

12                  **MS. JONES:** No, it's Mr. ---

13                  **MR. LEDUC:** It's reverend.

14                  **MS. JONES:** Reverend Bryan.

15                  **MR. LEDUC:** It's reverend; he's a deacon.

16                  **MS. JONES:** And there would be -- it appears  
17 to be four of you then in total. Was there anyone else  
18 that you discussed the settlement with at that point?

19                  **MR. LEDUC:** Not that I recall.

20                  **MS. JONES:** If I could refer to what you've  
21 just made reference to now and that is -- before we leave,  
22 just for sake of brevity, before we leave this document,  
23 Exhibit 1887, is it fair to say that in this particular  
24 statement that you do not make reference to meeting with  
25 Murray MacDonald, the Crown Attorney?

1                   **MR. LEDUC:** I gather that's correct from my  
2 quick review of the document, yes.

3                   **MS. JONES:** So if we could please go to  
4 Document 110245.

5                   **THE COMMISSIONER:** Exhibit 1892 is an  
6 interview report of Jacques Leduc dated August 2<sup>nd</sup>, 1994 of  
7 the Long Sault Detachment.

8                   **--- EXHIBIT NO./PIÈCE NO. P-1892:**  
9                   (110245) Interview Report of Jacques Leduc  
10                   dated August 2, 1994

11                   **MS. JONES:** To make your counsel happy, do  
12 you recognize this document, sir?

13                   **MR. LEDUC:** Yes.

14                   **MS. JONES:** And it seems to be an interview  
15 report of yourself taken on August 2<sup>nd</sup>, 1994 and you're  
16 being interviewed by the OPP?

17                   **MR. LEDUC:** Yes.

18                   **MS. JONES:** Now, this interview only lasts  
19 about nine minutes or so; the bulk of it I should say.  
20 There's a bit of a break I think. It's not a long  
21 interview in other words. But do you have independent  
22 recollection of giving this interview?

23                   **MR. LEDUC:** None whatsoever.

24                   **MS. JONES:** I just want to reference the  
25 comment that you made about Murray MacDonald and get it in

1 sequence correctly. If I could refer you please to Bates  
2 page 8433 ---

3 MR. LEDUC: Yes.

4 MS. JONES: --- about half way down the  
5 page.

6 MR. LEDUC: Yes.

7 MS. JONES: You stated:

8 "I can also tell you that prior to the  
9 release being signed, I had been  
10 advised by Malcolm MacDonald that the  
11 investigation of the city police was  
12 basically completed; that he had  
13 contacted the city investigators, the  
14 city police investigators..." --

15 Do I hear little foot steps behind me?

16 THE COMMISSIONER: Not little.

17 (LAUGHTER/RIRES)

18 MR. KOZLOFF: Good afternoon.

19 I'm being as quiet as I can, sir.

20 THE COMMISSIONER: I know that, sir.

21 MR. KOZLOFF: Did my friend say nine  
22 minutes?

23 THE COMMISSIONER: Said what? I can't hear  
24 you.

25 MR. KOZLOFF: Did my friend say nine minute

1 interview?

2 **THE COMMISSIONER:** Yeah. That's what she  
3 said, it was a nine minute interview.

4 **MS. JONES:** It started at 9:06 and it ended  
5 at 9:15 and then it recommenced briefly.

6 **MR. KOZLOFF:** Sorry, at 9:15?

7 **MS. JONES:** At 9:06 -- is that nine minutes?

8 **MR. KOZLOFF:** And then?

9 **MS. JONES:** This portion is nine minutes.

10 **DR. KOZLOFF:** And then?

11 **MS. JONES:** Yes, and it continued. I did  
12 say that it continued. I'm talking about the first portion  
13 which was a nine minute interview. That's what I was  
14 referring to.

15 I thought I was doing so well putting this  
16 document to the witness.

17 **THE COMMISSIONER:** Okay, so where were we?

18 **MS. JONES:** The ---

19 **THE COMMISSIONER:** It almost took Mr.  
20 Kozloff six minutes to come over here, you know.

21 (LAUGHTER/RIRES)

22 **THE COMMISSIONER:** Sorry, Mr. Kozloff. I  
23 didn't mean it.

24 **MS. JONES:** So we're still on Bates page  
25 8433.



1                   **THE COMMISSIONER:** Yes. M'hm.

2                   **MS. JONES:** I'll start again:

3                                "I had been advised..." --

4                   Sorry.

5                                "Prior to the release being signed, I  
6                                had been advised by Malcolm MacDonald  
7                                that the investigation of the city  
8                                police was basically completed; that he  
9                                had contacted the city investigators,  
10                              city police investigators and that he  
11                              had also advised Murray MacDonald of  
12                              the local Crown Attorney's office that  
13                              we were preparing a settlement, that we  
14                              were preparing a civil settlement and  
15                              that the Crown had no problems with  
16                              this."

17                   Did you see where that is?

18                   **MR. LEDUC:** Yes.

19                   **MS. JONES:** Okay.

20                              "I can now also indicate to you that  
21                              some time, either the last week of  
22                              August or the first week of September,  
23                              probably the last week of August, I saw  
24                              Murray MacDonald in the -- at the  
25                              courtroom Provincial Court House in the

1                   hall and confirmed with him that  
2                   Malcolm had spoken to him about it and  
3                   that he knew we were preparing a civil  
4                   settlement and that -- the -- had no  
5                   problems with this."

6                   Is that what you were referring to there?

7                   **MR. LEDUC:** That's correct.

8                   **MS. JONES:** So it would seem to be about  
9                   that same time frame that you're referring to?

10                  **MR. LEDUC:** Yes.

11                  **MS. JONES:** And can I just ask you why you  
12                  were at the courthouse that day?

13                  **MR. LEDUC:** On business.

14                  **MS. JONES:** And I had understood from your  
15                  first evidence that the Provincial Courthouse at that time  
16                  was in a separate building from where you may be filing  
17                  civil matters?

18                  **MR. LEDUC:** Yeah -- well, at that time the  
19                  family court was -- Provincial Court, Family Division was  
20                  also there. So I may have been there on a matter to deal  
21                  with that.

22                  **MS. JONES:** So it was a happenstance meeting  
23                  then rather than a prearranged one?

24                  **MR. LEDUC:** It was a coincidence that I had  
25                  wanted to meet Murray and that he happened to be there so I

1 took the opportunity.

2 **MS. JONES:** Now, if I could refer please to  
3 document -- sorry, Exhibit 1233. It's document 714888.

4 **THE COMMISSIONER:** What's the exhibit number  
5 again?

6 **MS. JONES:** One two three three (1233).

7 **THE COMMISSIONER:** It's another interview  
8 report of Murray MacDonald -- oh, no, sorry, not another,  
9 it's interview report of Murray MacDonald. Okay.

10 **MR. LEDUC:** What page please?

11 **MS. JONES:** Yes, we're going -- I just want  
12 to verify for the record.

13 **MR. LEDUC:** Oh, sorry.

14 **MS. JONES:** It's an interview by the OPP  
15 that's longer than nine minutes of Murray MacDonald on July  
16 14<sup>th</sup>, 1994 and the page that I'm looking for is Bates page  
17 5871.

18 And it's just a very brief reference; it's  
19 down at the bottom and going onto the next page. And I'm  
20 not going to read the whole thing into the record but he --  
21 Murray MacDonald is relating on that page and the next that  
22 he had had discussions with Malcolm MacDonald about the  
23 civil settlement, and Murray MacDonald confirmed to Malcolm  
24 MacDonald "You're civil settlement does not affect the  
25 criminal prosecution."

1                   So that confirms essentially what Malcolm  
2                   MacDonald had said his conversation was, was Murray  
3                   MacDonald.

4                   Now, I don't know if you've read this whole  
5                   document but there isn't a mention by Murray MacDonald  
6                   about him meeting you and discussing this civil settlement.  
7                   He does mention meeting Malcolm MacDonald but he doesn't  
8                   actually mention you. Did you have any notes of that  
9                   conversation to verify it?

10                   **MR. LEDUC:** No.

11                   **MS. JONES:** Or is it just your recollection  
12                   in -- put in the statement?

13                   **MR. LEDUC:** It's my recollection then.

14                   **MS. JONES:** Okay.

15                   **MR. SKURKA:** Mr. Commissioner, could I  
16                   arise? It's just a matter of procedural fairness.

17                   My friend put one excerpt -- I don't have  
18                   the Bates number, I apologize, but there is a later  
19                   reference in the interview of Mr. Leduc where he does come  
20                   back a second time to the discussion at the courthouse with  
21                   Murray MacDonald, the Crown Attorney, where he relates  
22                   specifically that it was only in relation to the civil case  
23                   and not the criminal case, which confirms more closely with  
24                   the statement that my friend just put in relation to Mr.  
25                   MacDonald.

1                   **THE COMMISSIONER:** Where is it?

2                   **MR. SKURKA:** I only have it as page 10.

3                   I'll just show my friend ---

4                   **THE COMMISSIONER:** Page 10 of what?

5                   **MR. SKURKA:** --- and if she can just  
6 perhaps, in fairness, put that to Mr. Leduc as well.

7                   **THE COMMISSIONER:** Okay.

8                   **MS. JONES:** I just don't have the exhibit  
9 number of --

10                  **THE COMMISSIONER:** It's ---

11                  **MS. JONES:** It's the OPP statement.

12                  **THE COMMISSIONER:** It's 1892.

13                  **MS. JONES:** It's not Murray MacDonald's  
14 statement. It's ---

15                  **THE COMMISSIONER:** Jacques Leduc's.

16                  **MS. JONES:** Jacques Leduc's, okay. No, the  
17 Bates page is right there. It's 8438.

18                  **THE COMMISSIONER:** M'hm. So he was asked by  
19 the OPP about ---

20                  **MS. JONES:** Yes, it's in his OPP statement  
21 and that's fine. He refers to it the second time. It's  
22 just confirming that you spoke to Murray MacDonald.

23                  **MR. SKURKA:** No, but it's more specific, in  
24 fairness, and that's the point I'm making, that he talks  
25 about it being in relation to civil and not criminal. It

1       elaborates beyond the earlier portion. And in my  
2       submission, in fairness, that should be put to Mr. Leduc as  
3       well.

4                   **THE COMMISSIONER:** Well, of course it only  
5       refers to a civil settlement because if it was a criminal  
6       settlement it would be illegal. So ---

7                   **MR. SKURKA:** But he had a -- he's indicating  
8       in this -- I'm just pointing out that there was one portion  
9       put to Mr. Leduc which was more cursory than this and in  
10      this passage Mr. Leduc -- he may be stating the obvious but  
11      it conforms with the position he's taken at this Inquiry,  
12      the position that Murray MacDonald related in the statement  
13      taken that it was only the civil and not the criminal and  
14      Mr. Leduc had that discussion. That's all.

15                   **THE COMMISSIONER:** Okay.

16                   **MS. JONES:** So do you confirm that then, Mr.  
17      Leduc? Yes?

18                   **MR. LEDUC:** That my discussion was in  
19      relation to the civil settlement only?

20                   **MS. JONES:** Yes.

21                   **MR. LEDUC:** Yes, absolutely.

22                   **MS. JONES:** So if we can please refer back  
23      to Exhibit 1887.

24                   **MR. LEDUC:** Yes.

25                   **MS. JONES:** And I'm looking at Bates page

1 2732.

2 **MR. LEDUC:** Yes.

3 **MS. JONES:** It states that:

4 "The release was discussed by Malcolm  
5 MacDonald and I. Malcolm was to  
6 prepare the release but he called me  
7 and told me he did not know where to  
8 start because he had not done anything  
9 like this before. I had acted on a  
10 number of such complaints in the past,  
11 although not for the Church but for  
12 victims in some Quebec incidents. I  
13 looked for a precedent, I may have  
14 looked at a certain file, I cannot find  
15 the precedent that was used."

16 **THE COMMISSIONER:** O'Brien's is a book of  
17 precedents.

18 **MS. JONES:** Oh, it's a book of precedents.

19 **THE COMMISSIONER:** Yeah, you wouldn't know  
20 that because that's before your time I guess.

21 **MS. JONES:** Is it? Okay.

22 **MR. LEDUC:** Thank you, Mr. Commissioner.

23 **MS. JONES:** No, thank you Mr. Commissioner.

24 **THE COMMISSIONER:** Oh.

25 **MR. SHERRIFF-SCOTT:** I was just going to say

1 that for specialized training for civil litigation BLG has  
2 a course called 101 that we offer and I'll be pleased to  
3 have my friend come to that.

4 (LAUGHTER/RIRES)

5 MS. JONES: I'll act right on that.

6 The paragraph there is very significant for  
7 a few reasons. First of all it seems that your state of  
8 mind at that particular time shows that you were aware that  
9 Malcolm MacDonald had had no experience really in drafting  
10 releases such as this one before. He, like me, could  
11 probably have used a course at BLG I suppose. But he had a  
12 criminal law background; correct?

13 MR. LEDUC: That was his major area of  
14 practice.

15 MS. JONES: And you, on the other hand, had  
16 more of a civil law background?

17 MR. LEDUC: That's correct.

18 MS. JONES: So of the two of you, you had  
19 the precedents. You had something called O'Brien's. And  
20 you also had experience in drafting such releases.

21 MR. LEDUC: Limited experience, yes.

22 MS. JONES: Okay. You'd agree with me that  
23 Malcolm MacDonald was a criminal lawyer, not a civil  
24 lawyer.

25 MR. LEDUC: Yes. Well, he did do some civil



1 matters, you know. He did do real estate. He did do  
2 estates. But I think his principal focus was on criminal  
3 work.

4 **MS. JONES:** He did not have precedents; is  
5 that correct?

6 **MR. LEDUC:** Well, he tells me that he didn't  
7 know where to start.

8 **MS. JONES:** Okay. And he'd never done this  
9 before?

10 **MR. LEDUC:** That's what my statement says,  
11 yes.

12 **MS. JONES:** Okay. And he had not  
13 represented parties that had been involved in such a thing  
14 such as you had which you described there.

15 **MR. LEDUC:** I don't know what Malcolm's  
16 experience was on that issue.

17 **MS. JONES:** In the next paragraph, you said:

18 "To the best of my recollection, I  
19 dictated a draft with blanks where the  
20 names would appear and had my secretary  
21 type it up. I faxed that draft  
22 precedent to Malcolm MacDonald."

23 Just a moment, please.

24 "My draft should not contain any  
25 reference to release against criminal

1                                   actions. He faxed back some changes  
2                                   and I corrected some details."

3                   **MR. LEDUC:** Yes.

4                   **MS. JONES:** Now, again it would appear that  
5                   you're the one who initiated the process of preparing the  
6                   initial draft of this settlement.

7                   **MR. LEDUC:** At Malcolm's request, I provided  
8                   him with the first draft of the document, yes.

9                   **MS. JONES:** And you faxed that to Mr.  
10                  MacDonald. You're the one who started the fax  
11                  relationship, shall we say, of this thing going back and  
12                  forth.

13                  **MR. LEDUC:** Well, I did ---

14                  **MS. JONES:** You faxed your copy to him.

15                  **MR. LEDUC:** Yes, yes.

16                  **MS. JONES:** And he faxed back some changes  
17                  to you. That was the second sort of exchange by fax.

18                  **MR. LEDUC:** I'm not prepared to admit to  
19                  whether it was the second, third or fourth exchange. I  
20                  know there was an exchange of drafts and I'm not sure how  
21                  many except that I know I made changes and requested that  
22                  he make changes.

23                                 And I know that the draft that I prepared  
24                                 was the one that we have which is not the one that was  
25                                 ultimately signed. How many corrections, how many drafts

1           were made by fax back and forth?

2                       **MS. JONES:** It would seem when you made this  
3 statement which is obviously much closer to the event than  
4 today is, it says very clearly:

5                               "I faxed the draft precedent to Malcolm  
6 MacDonald. My draft should not contain  
7 any reference to release against  
8 criminal actions. He faxed back some  
9 changes and I corrected some details."

10                   **MR. LEDUC:** That's right.

11                   **MS. JONES:** So the way you have described  
12 this process, it sounds like you were the one that was  
13 ensuring that the release contained certain terms in it.

14                   **MR. LEDUC:** That's right.

15                   **MS. JONES:** And that you had made the  
16 initial fax and you were basically getting the final fax as  
17 well when you say "I corrected some details."

18                   **MR. LEDUC:** Yes, some -- yes, I made some  
19 modifications -- I told him to make modifications including  
20 removing -- I gather there were references to criminal  
21 matters and I told him to remove them.

22                   **MS. JONES:** Okay, we'll get to that in just  
23 a second. But up until this particular point, it seems to  
24 me you did two actions to his one, at this particular point  
25 in time.

1                   **MR. LEDUC:** I don't recall except that there  
2 was an exchange of drafts by fax.

3                   **MS. JONES:** By what you described here, it  
4 would appear to be one fax you sent to him and then he sent  
5 you a fax back.

6                   **MR. LEDUC:** Yes. But, as I said, I'm not  
7 prepared to say categorically there was just one exchange  
8 back and forth. I don't recall how many there were.

9                   **MS. JONES:** Would it be fair to say if there  
10 were numerous faxes back and forth that you likely would  
11 have put that in there at the time?

12                   **MR. LEDUC:** That I would have put what?

13                   **MS. JONES:** That there ---

14                   **MR. LEDUC:** That I would have mentioned it?

15                   **MS. JONES:** -- were numerous exchanges back  
16 and forth, various drafts?

17                   **MR. LEDUC:** Not necessarily. I think the  
18 paragraph is brief and to the point and sets out what  
19 happened.

20                   **MS. JONES:** Now, if we could please go to  
21 that release, Document 122888.

22                   **THE COMMISSIONER:** So can I get it clear?  
23 You stroke out on page 732 and it had criminal references?

24                   **MR. LEDUC:** Yes.

25                   **THE COMMISSIONER:** Okay. So what's your

1 evidence; that it did have criminal references and you  
2 asked him to take them out?

3 **MR. LEDUC:** That's correct.

4 **THE COMMISSIONER:** So why would you take out  
5 "and it had criminal references?" Why would you strike  
6 that out of your draft statement to your lawyer?

7 **MR. LEDUC:** Because I continue and I say  
8 that I phoned him.

9 **THE COMMISSIONER:** M'hm.

10 **MR. LEDUC:** And told him to make sure that  
11 any or the -- you see there was "the criminal reference"  
12 and that the matter be removed.

13 **THE COMMISSIONER:** M'hm. Okay.

14 Thank you. Exhibit Number 1893 is a  
15 document called, "Full release and undertaking not to  
16 disclose," dated September 2<sup>nd</sup>, 1993.

17 **---EXHIBIT NO./PIÈCE NO P-1893:**

18 (122888) Full release and undertaking not to  
19 disclose dated 02 Sep 93

20 **MS. JONES:** Now, I'd like to refer you to a  
21 couple of pages in on the Document 3660.

22 **MR. LEDUC:** Yes?

23 **MS. JONES:** Can you identify that document?

24 **MR. LEDUC:** This is a photocopy of a cover  
25 sheet from my firm to Malcolm MacDonald containing three

1 pages and page 1 of 3 and I can't read, it was -- when it  
2 was faxed on this photocopy anyway. At 7:54, it's in '93.

3 MS. JONES: Now, the next Bates page 3661,  
4 it would appear to be a Certificate of Independent Legal  
5 Advice.

6 MR. LEDUC: Yes.

7 MS. JONES: And it looks like it's a draft.  
8 There's no signatures in the signature line. Would you  
9 agree it has the appearance of being a draft document?

10 MR. LEDUC: Yes.

11 MS. JONES: It has the name Sean Adams  
12 inserted there, typewritten and has the handwritten name of  
13 David Silmser in two particular spots. It also has Sean  
14 Adams on the sign line.

15 Is it possible that actually came from Sean  
16 Adams' office or did it come from yours. Do you have any -  
17 --

18 MR. LEDUC: I don't know that.

19 MS. JONES: --- memory of that?

20 MR. LEDUC: No.

21 MS. JONES: Okay. If we go to the next page  
22 then please, 3662.

23 MR. LEDUC: Yes.

24 MS. JONES: And 3663. Now, this is called  
25 "Full release and undertaking not to disclose." Are these

1 the two documents that you and Malcolm MacDonald were  
2 faxing back and forth to each other at the relevant time  
3 period that we're talking about now?

4 **MR. LEDUC:** The document at 3662, the "Full  
5 release and undertaking not to disclose," is a draft of the  
6 release and that's not my handwriting though, and it looks  
7 like the draft that I would have prepared.

8 **MS. JONES:** That you would have prepared?

9 **MR. LEDUC:** Yes. Yes.

10 **MS. JONES:** And the numeration is changed.  
11 Do you know who changed that?

12 **MR. LEDUC:** I can only conclude that it  
13 would be Malcolm. It's his hand -- it's his. And the  
14 reason I conclude this, if you go to paragraph 5, it says:

15 "I hereby authorize and direct the  
16 release to pay the said consideration  
17 to me."

18 Which would be to Malcolm.

19 **MS. JONES:** So the numeration changes then  
20 were not done by you?

21 **MR. LEDUC:** No.

22 **MS. JONES:** In any event.

23 **MR. LEDUC:** No.

24 **MS. JONES:** So when you saw this particular  
25 document then, you said that there were changes that you

1 would have made to it. You're saying these changes are not  
2 your handwriting. So I guess we can conclude from that  
3 that there's another version there that would have had your  
4 handwriting on it?

5 **MR. LEDUC:** I'm not sure if my handwriting  
6 is on it, but there was another version. Yes, there was  
7 another version.

8 **MS. JONES:** Because presumably you would  
9 have received the draft, made changes on the document and  
10 faxed that document back?

11 **MR. LEDUC:** Oh, no, I think my statement  
12 says I called him. I phoned him and told him to make sure  
13 that, you know -- I had a conversation with him to tell him  
14 what changes to make.

15 **MS. JONES:** Well, you actually said that  
16 your draft -- he faxed back some changes and then you also  
17 had -- just a minute, I want to get the exact wording.

18 And you had said:

19 "He faxed back some changes and I  
20 corrected some details."

21 **MR. LEDUC:** That's correct.

22 **MS. JONES:** So presumably your corrections  
23 would have also been on the face of the document?

24 **MR. LEDUC:** I'm not sure. I know there were  
25 some corrections made. I'm not sure if I -- I wrote them



1 down or ---

2 MS. JONES: What would be the alternative?

3 MR. LEDUC: Telling him what to do over the  
4 phone but ---

5 MS. JONES: Well, you mentioned that ---

6 MR. LEDUC: It says I faxed the precedent to  
7 Malcolm. Then he says:

8 "He faxed back some changes and I  
9 corrected some details."

10 So I did do that. I recall calling him and  
11 asking to make corrections, and I do recall calling him and  
12 telling him to remove the references to criminal matters.

13 MS. JONES: So when you say "criminal  
14 matters", presumably if we look at the draft that we have  
15 here, Bates page 3662, that was done then after the phone  
16 call that you made to him?

17 MR. LEDUC: You see, what I'm not certain  
18 is, is this my document that he retyped? I don't know.  
19 And that was faxed back to me. I don't remember how that  
20 sequence went except that the one on 3662 appears to be the  
21 document I prepared.

22 THE COMMISSIONER: And what makes you say  
23 that?

24 MR. LEDUC: Well, because he's changing it.  
25 It's his -- it's his little notes.

1                   **THE COMMISSIONER:** I see what you mean.

2                   **MS. JONES:** So when you had the document in  
3 this particular state, then the typewritten version you're  
4 saying is your contribution at least to this date, and the  
5 handwritten little adjustments seem to be Malcolm's?

6                   **MR. LEDUC:** Yes.

7                   **MS. JONES:** So in the typewritten version  
8 then, is it your evidence that at this particular stage,  
9 there's nothing there that in any way impacts on criminal  
10 proceedings?

11                   **MR. LEDUC:** In 3662?

12                   **MS. JONES:** In 3662 and 3663.

13                   **MR. LEDUC:** Yes, that's a standard release  
14 which I would have prepared in that form, yes.

15                   **MS. JONES:** And if you now look to the front  
16 of the document a couple of pages, 3659.

17                   **MR. LEDUC:** Yes.

18                   **MS. JONES:** I believe that this is the final  
19 version of the release and undertaking and I understand,  
20 unless there are any issues, that it was done on the 2<sup>nd</sup> day  
21 of September 1993, signed by David Silmser and Sean Adams  
22 down below?

23                   **MR. LEDUC:** That's the final version, yes.

24                   **MS. JONES:** It would appear that the only  
25 real substantial change in any event between the draft

1 version that we've just looked at, 3662 and 3663, and the  
2 final version that was actually signed on 3659, is the  
3 insertion of paragraph 2?

4 **MR. LEDUC:** That's correct.

5 **MS. JONES:** And paragraph 2 reads ---

6 **MR. LEDUC:** I'm sorry. That, together with  
7 the reference to the social insurance number for Mr.  
8 Silmsers.

9 **MS. JONES:** Okay. I'm just saying of  
10 substance.

11 **MR. LEDUC:** Yes, yes.

12 **MS. JONES:** Yes, there are other little tiny  
13 changes as well.

14 **MR. LEDUC:** Yes.

15 **MS. JONES:** But the substantive change is  
16 paragraph 2. It states:

17 "In addition to the aforesaid release  
18 and for the said consideration, I  
19 hereby undertake not to take any legal  
20 proceedings, civil or criminal, against  
21 any of the parties hereto and will  
22 immediately terminate any actions that  
23 may now be in process."

24 And if you refer to -- it's hard because  
25 there's multiple documents here, but if you refer to your -

1 - the statement that you had provided earlier that we had  
2 talked about in Exhibit 1888, you said -- and I think you  
3 say it a couple of times -- you phoned Mr. MacDonald to  
4 ensure that any criminal references to the matter must be  
5 removed from any release?

6 **MR. LEDUC:** Yes.

7 **MS. JONES:** So, presumably, that telephone  
8 conversation took place after this draft, as it was in  
9 3662; if I just call that "the draft". Presumably, that  
10 telephone conversation took place after this draft was sent  
11 to Mr. MacDonald but before the final release was signed?

12 **MR. LEDUC:** Yes.

13 **MS. JONES:** And again just to be clear, it's  
14 your opinion in the draft version that there's nothing  
15 there that could be construed as a criminal reference to  
16 the matter?

17 **MR. LEDUC:** In my draft, no.

18 **MS. JONES:** In your draft.

19 If you go to paragraph 3 of the final  
20 version or paragraph 2 of the draft, they're the same thing  
21 basically, it states:

22 "In addition to the aforesaid release  
23 and for the said consideration, I  
24 further hereby undertake not to  
25 disclose or permit disclosure, directly

1 or indirectly, of any of the terms of  
2 this settlement or of any of the events  
3 alleged to have occurred. Breach of  
4 this undertake will constitute a breach  
5 of settlement agreement as evidenced by  
6 this release and I will refund all  
7 amounts paid to me forthwith."

8 Can you see that someone, certainly someone  
9 without legal training certainly, could interpret that  
10 clause as encompassing a criminal setting in addition to a  
11 civil setting?

12 **MR. SKURKA:** With respect, Mr. Commissioner,  
13 that calls for speculation on the part of Mr. Leduc.

14 What relevance is it if it's his opinion as  
15 to if someone, a random person who doesn't have legal  
16 training, how they could interpret this document. It's of  
17 no probative value whatsoever.

18 **THE COMMISSIONER:** Do you want to try  
19 rephrasing it?

20 **MS. JONES:** When you are drafting documents  
21 as a lawyer in any sort of civil context, be it real estate  
22 or wills, estates or Small Claims Court, is it important  
23 for you to ensure the wording is particularly clear?

24 **MR. LEDUC:** This is or was a typical non-  
25 disclosure provision, standard non-disclosure provision,

1 and depending who asked for the non-disclosure provision --  
2 could be either party or both parties -- this would be the  
3 clause that would indicate that the parties had agreed not  
4 to disclose the terms of the settlement to anyone.

5 My interest in serving my client is that he  
6 understands, or it understands, that there is a provision  
7 of non-disclosure if it was my instructions to include such  
8 a provision. I'm concerned with my client. The person  
9 signing this is not my client and I have no concerns with  
10 how he or she views such a clause. They have independent  
11 legal representation. That's someone else's job.

12 **THE COMMISSIONER:** Did you receive  
13 instructions from the Diocese to put in the ---

14 **MR. LEDUC:** My recollection is that it was  
15 Mr. Silmsler who wanted a non-disclosure agreement. That's  
16 my recollection.

17 **THE COMMISSIONER:** So you're saying you did  
18 not receive any instructions, to your recollection, from  
19 the Diocese to put in this ---

20 **MR. LEDUC:** That's correct. That's correct.

21 **THE COMMISSIONER:** --- this clause?

22 **MS. JONES:** And just answering the question  
23 I posed actually a moment ago, ---

24 **MR. LEDUC:** I'm sorry.

25 **MS. JONES:** That's okay. Would you agree

1       that when you're drafting things such as wills or estates,  
2       a real estate transaction, that part of your role as a  
3       civil lawyer is to use simple language so that everyone  
4       understands what the terms of the agreement are?

5                   **MR. LEDUC:** Lawyers have been struggling  
6       with simple language for 300 years and we still haven't  
7       resolved the issue, and there is no doubt that in different  
8       contracts you use different terminology. Some may call it  
9       simple; others may call it legal jargon.

10                   My personal practice, was depending on what  
11       the document was to be used for and in what context and if  
12       I was preparing a will for a person who needed to obviously  
13       understand what the will was, I could not use legalese. So  
14       each circumstance deserves a different application of the  
15       language.

16                   In this instance, I think a two-page release  
17       based on a precedent from O'Briens was very clear,  
18       unequivocal, very straightforward.

19                   **MS. JONES:** And that's your opinion of what  
20       that clause reads as?

21                   **MR. LEDUC:** That clause is clearly a non-  
22       disclosure provision.

23                   **MS. JONES:** Okay. Now, the final version  
24       that was signed obviously has paragraph 2 inserted. Did  
25       you read the final version of that release or undertaking

1 before it was signed?

2 MR. LEDUC: No, I don't believe I did. I  
3 mean after it was signed, you mean?

4 MS. JONES: No.

5 MR. LEDUC: Before?

6 MS. JONES: Before it was signed?

7 MR. LEDUC: Not that I recall, no.

8 MS. JONES: So was it possible that you read  
9 it?

10 MR. LEDUC: This document before it was  
11 signed?

12 MS. JONES: It is possible you read the  
13 final version of the release and undertaking not to  
14 disclose, is it possible you read it over before it was  
15 signed?

16 MR. LEDUC: Highly unlikely.

17 MS. JONES: So by saying highly unlikely,  
18 can we ---

19 MR. LEDUC: I don't recall ---

20 MS. JONES: --- say that there's a  
21 possibility that you read it?

22 MR. LEDUC: Doubtful. I don't recall. As a  
23 matter of fact, I think I would recall having read it. I  
24 don't think I read it.

25 MS. JONES: You don't think you read it?



1                   **MR. LEDUC:** No.

2                   **MS. JONES:** You'd agree with me that ---

3                   **MR. LEDUC:** Well, let me be clear. I don't  
4 think I read it because of the -- what I have said in this  
5 statement that I told Mr. MacDonald to remove the  
6 references to criminal matters. I read that release which  
7 would have had references to criminal matters, told him to  
8 remove it, via telephone calls. So did he send me back  
9 this by fax? I don't think so. Did I read this document  
10 before it was signed with paragraph 2 in it? No.

11                   **MS. JONES:** So by what you're saying then  
12 that you did read a draft in which the paragraph 2 that  
13 we're talking about here was put in ---

14                   **MR. LEDUC:** Or language to that effect ---

15                   **MS. JONES:** Okay.

16                   **MR. LEDUC:** --- which is consistent with my  
17 statement.

18                   **MS. JONES:** So then you were aware at that  
19 point that Malcolm MacDonald had inserted this paragraph 2,  
20 we'll call it, at some point in the drafts going back and  
21 forth between your offices?

22                   **MR. SKURKA:** With respect, it wasn't this  
23 paragraph 2. Mr. Leduc was very specific. It could have  
24 been paragraph 2 or language akin to it. It is a very  
25 significant difference.

1                   **MS. JONES:** Right. Paragraph 2 or language  
2                   akin to it, do you recall then reading that because it  
3                   would make sense because you phoned him to make sure any  
4                   criminal references were removed.

5                   **MR. LEDUC:** Ms. Jones, I can -- I can say  
6                   clearly that I asked him to remove references to criminal  
7                   matters. Whether it was the identical wording of paragraph  
8                   2, I don't remember.

9                   **MS. JONES:** It could have been something  
10                  like paragraph 2?

11                  **MR. LEDUC:** Yes. Yes, yes.

12                  **MS. JONES:** Okay. So part of the reason or  
13                  perhaps the primary reason why you did that was because  
14                  you're acting on behalf of your client and clearly your  
15                  client wouldn't want such a reference put in the document?

16                  **MR. LEDUC:** Well, such a reference would  
17                  void that -- certainly that would be void and it would be  
18                  all the other arguments against public policy. You can't  
19                  impede criminal process.

20                  **MS. JONES:** But did not the Bishop  
21                  specifically say he didn't want to make -- he wanted to  
22                  make sure that the criminal process proceeded independently  
23                  of this civil settlement?

24                  **MR. LEDUC:** Oh, absolutely. The Bishop was  
25                  very clear and adamant on that point throughout.

1           **MS. JONES:** So you had specific instructions  
2           in addition to your already due diligence to make sure such  
3           a clause such as clause 2 did not appear in any sort of  
4           release or undertaking?

5           **MR. LEDUC:** Well, those weren't specific  
6           instructions but clearly the Bishop's instructions to me  
7           were, you know, we're not impeding the criminal process and  
8           I needed to reassure him that this civil settlement would  
9           not do that and that Mr. Silmsler, if he wanted to proceed  
10          with criminal charges, would be free to do so and I think I  
11          say that somewhere.

12          **MS. JONES:** Now ---

13          **THE COMMISSIONER:** Can we go -- as I  
14          indicated yesterday, I have an appointment. So can we go  
15          another five minutes and then we'll ---

16          **MS. JONES:** Okay. That would be fine.

17                        On the Exhibit 1888, which is back to your  
18          statement, please.

19          **MR. LEDUC:** Yes.

20          **MS. JONES:** One last point before we leave  
21          for the day. I'm looking at Bates page 2750 and the first  
22          complete paragraph at the top.

23          **MR. LEDUC:** I'm sorry. I'm confused.

24          **THE COMMISSIONER:** Yeah. What ---

25          **MS. JONES:** Bates page 2750; Madam Clerk has

1 it.

2 THE COMMISSIONER: Yeah, but what document?

3 MS. JONES: Exhibit 1888.

4 THE COMMISSIONER: Oh, it's the settlement,  
5 sir, the documents.

6 MS. JONES: It's your statement.

7 THE COMMISSIONER: No, it's your statement.  
8 Right. So that's not the document number. It's Exhibit,  
9 sir, 1887.

10 MR. LEDUC: Yes, I have it; 1887.

11 THE COMMISSIONER: All right. And what  
12 page?

13 MS. JONES: One eight eight eight (1888).

14 THE COMMISSIONER: I'm sorry?

15 MS. JONES: I think -- I've got it 1888; is  
16 that wrong?

17 Okay.

18 THE COMMISSIONER: So it's page 8 if you  
19 look right in the middle of that; two pages from the end.

20 MR. LEDUC: Thank you. Sorry.

21 MS. JONES: Now, it's the first complete  
22 paragraph:

23 "I did not keep a copy of any of my  
24 documents or faxes in this matter. I  
25 wanted nothing in my office, in my

1 files or in my home. In any of these  
2 cases involving the reputation of a  
3 priest, I prefer the anonymity of the  
4 parties. Malcolm should have copies of  
5 my faxes."

6 Do you see that?

7 **MR. LEDUC:** Yes.

8 **MS. JONES:** So does that confirm then that  
9 you actually had not opened up a file on these new  
10 instructions that you had received with regards to this  
11 negotiation settlement?

12 **MR. LEDUC:** That's correct.

13 **MS. JONES:** And you also said there "in any  
14 of these cases involving the reputation of a priest." It  
15 would imply obviously that there's more than one and we  
16 know of Father Deslauriers and obviously we know of Father  
17 Charlie MacDonald.

18 Was this a specific instruction given to you  
19 by your client not to keep files on such matters?

20 **MR. LEDUC:** No. No, absolutely not. The  
21 other cases I'm referring to are the ones dealing with the  
22 Province of Quebec.

23 **MS. JONES:** Okay. But did the Bishop  
24 specifically ask you not to open up a file in order to  
25 preserve the anonymity of the parties?

1                   **MR. LEDUC:** Never.

2                   **MS. JONES:** In legal files that all lawyers  
3 open, would you agree that all parties are to have their  
4 identity protected to some degree, that all client files  
5 are confidential?

6                   **MR. LEDUC:** Yes.

7                   **MS. JONES:** And did you open up files for  
8 other people whose identities were confidential in your  
9 office?

10                  **MR. LEDUC:** Yes.

11                  **MS. JONES:** But not this one?

12                  **MR. LEDUC:** Not this one.

13                  **MS. JONES:** Did you keep track of your time  
14 somehow?

15                  **MR. LEDUC:** Not with notes, no.

16                  **THE COMMISSIONER:** Well, if not with notes -  
17 --

18                  **MR. LEDUC:** Well, with recollection.

19                  **THE COMMISSIONER:** M'hm.

20                  **MS. JONES:** You kept a docket in your head?

21                  **MR. LEDUC:** Well, that's not a very nice way  
22 of saying it but I would guesstimate the time spent  
23 depending on the client and I would always discuss with the  
24 client if you're talking about fees and time spent, yes.  
25 And my billing was not always related to time spent.

1 Sometimes I would, you know, charge more money for very  
2 little time and not so much money for a lot of time.

3 So one of the factors in submitting an  
4 account is time spent. It's not the only factor.

5 **MS. JONES:** What about this particular  
6 client?

7 **MR. LEDUC:** The Diocese, most of the time  
8 when I was consulted, there would be no fee.

9 **MS. JONES:** What about times when there was  
10 fee?

11 **MR. LEDUC:** Then I would think about the  
12 amount of time that I thought I had spent, time spent,  
13 complexity of the case, results obtained; submit a fee.

14 **MS. JONES:** I think this would be a good  
15 place to stop actually.

16 **THE COMMISSIONER:** Great. Thank you.  
17 Sir, we'll come back at 9:30 tomorrow  
18 morning.

19 **MR. LEDUC:** Nine-thirty (9:30)?

20 **THE COMMISSIONER:** Yes.

21 In the meantime please -- just a reminder,  
22 you're not to discuss any of your evidence with anyone and  
23 if you -- if somebody tries to, you're to report that to  
24 me.

25 **THE REGISTRAR:** Order; all rise. À l'ordre;

1           veuillez vous lever.

2                           This hearing is adjourned until tomorrow  
3 morning at 9:30 a.m.

4           --- Upon adjourning at 3:42 p.m./

5                   L'audience est ajournée à 15h42

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T I O N

I, Dale Waterman a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Dale Waterman, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



---

Dale Waterman, CM